



Department of Energy

Golden Field Office
1617 Cole Boulevard
Golden, Colorado 80401-3393

TO: All Prospective Offerors

DATE: 03/17/99

SUBJECT: Request for Proposals (RFP) No. DE-RP36-99GO10343
Solar Ventilation Air Preheating Systems (SVPS) Technology Specific Super Energy Savings
Performance Contract (SVPS SUPER ESPC) Solicitation for U.S. Department of Energy
(DOE)/Golden Field Office (GO)

The purpose of this solicitation is to select up to three DOE-qualified energy service companies (ESCOs) to provide energy retrofits based primarily on installation of a solar ventilation air preheating systems (SVPS) in federally owned facilities under the format of Indefinite Delivery/Indefinite Quantity (IDIQ) SUPER energy savings performance contract (SUPER ESPC) awards. These contracts are intended for award by no later than August 1999, and will be in addition to the multi-technology regional SUPER ESPC contract awards which have been and continue to be solicited and awarded for the six DOE regions of the United States and its territories. As indicated, the IDIQ contract award(s) against this solicitation will require that projects procured as delivery orders against the contract(s) will be primarily solar ventilation air preheating system projects. The multi-technology and technology-specific SUPER ESPC contracts awarded are, therefore, intended to complement one another and increase the participation of the overall energy industry, and not compete with one another.

For those unfamiliar with the SUPER ESPC process, the IDIQ contract itself does not award a project for services, but rather provides the general terms and conditions applicable to all delivery orders to be issued against it, UNLESS changed or superseded by terms and conditions included in the delivery orders, as permitted by the contract. This is necessary due to the intended use of these contracts by all federal agencies who have differing and additional regulations and procedures. This structure, plus the fact that only the up to three contractors receiving awards need to be competed for specific projects, and then not always, based on the availability of certain sole source exceptions, results in a more rapid, streamlined and flexible procurement process.

An ESPC contract is permitted to have a contract term of up to twenty-five years, and the delivery orders against it may also be up to twenty-five years, but their terms are shortened to a maximum length based on the remaining years left in the term of the SUPER ESPC contract. Offerors should take note of the ordering period limitation provision at Section B.4 of the RFP that states that the ordering period may end at the end of the legal authority that commenced with the issuance of the regulation on Energy Savings Performance Contracting on April 10, 1995. (See Section B.4.) That authority has since been extended to October 1, 2003 by P.L. 105-388. The Government intends at a future date to modify the contracts that result from this solicitation to extend the ordering period specified, if the legal authority is further extended.

The contractor receiving a delivery order project will incur all the risk and expense of installation and implementation of that project, to include its financing, and in most cases operations and maintenance during the term of the delivery order, and receive monthly payments based on the annual fixed payment schedules, as established in negotiations of the order. The annual fixed payments may be adjusted based on annual energy audits that will be conducted on or about each anniversary of the Government acceptance of the energy conservation measures' (ECMs) installation date for a specific delivery order award. In the event the annual energy audit reveals that the annual guaranteed energy savings (in both dollars and energy units) were not sufficient to cover the annual contractor payments for the annual period covered, then adjustments shall be made to the next annual year's payments for the shortfall, and for the anticipated shortfall for the current year. These adjustments shall be made until the contractor can submit evidence, approved by the Contracting Officer for the delivery order, that the performance efficiency problems causing the shortfall have been corrected. The annual payments made to the contractor, in any case, may not exceed the annual energy and maintenance savings created by the improvements made from installation of energy savings measures.



The provisions in Sections H.23 through H.29 of the solicitation prescribe the procedures that will be used in describing, evaluating, selecting and awarding delivery orders issued against the IDIQ contracts awarded as a result of this solicitation. Subsequent to awards resulting from this solicitation, DOE will provide both a prescriptive delivery order request for proposal (DO RFP) and standard data package (SDP) formats for use by federal agencies to describe projects for which proposals will be requested. (See Section H.24 of the RFP.) These formats are intended to simplify the delivery order award process even further, as well as make it consistent. The RFP requires that either these formats be used, or agency-developed ones that reflect the same contents.

Federal agencies choosing to place delivery orders against the awarded IDIQ contracts resulting from this solicitation will enter into Memoranda of Understanding (MOUs) with DOE which will specify the parties' responsibilities and identify some minimal agency reporting requirements. DOE will authorize federal agencies to place delivery orders against the contracts, on condition of a DOE review of the delivery order DO RFPs and delivery orders prior to issuance. This condition may be removed by DOE for a specific agency once that agency has successful experience with the process.

For those unfamiliar with a DOE solicitation, it is divided into the twelve standard sections of a federal competitive procurement conducted in accordance with the Federal Acquisition Regulation (FAR), and overall termed the "Schedule." The following table outlines these sections:

Section	Contents
B	Supplies or Services and Prices/Costs
C	Description/Specifications/Work Statement
D	Packaging and Marking
E	Inspection and Acceptance
F	Deliveries or Performance
G	Contract Administration Data
H	Special Contract Requirements
I	Contract Clauses
J	List of Documents, Exhibits, and Other Attachments
K	Representations, Certifications and other Statements of Offeror
L	Instructions, Conditions and Notices to Offerors
M	Evaluation Factors for Award

Sections B through J of this RFP also represent what will ultimately be included in the resulting contracts as terms and conditions. The Section K completed representations and certifications of successful offerors will be incorporated by reference in the resulting contracts as well. Some provisions in the solicitation are included, therefore, although unnecessary for solicitation purposes. This is done primarily for contracting office administration purposes, but also for the benefit of the offerors to see how the language will read in the awards.

Proposal preparation instructions and proposal evaluation criteria are outlined in the last two sections of the solicitation, at Part IV, Sections L and M respectively of this solicitation. Carefully reading the criteria in Section M against which offerors will be competitively evaluated for selection, and then carefully providing the information requested in Section L (in the form of succinct responses to all evaluation criteria and subcriteria) which will be the basis of conducting that evaluation is critical to a successful response to the solicitation. Although the Government reserves the right to establish a competitive range of offerors and conduct discussions prior to making selection(s), award on initial offers, without discussions with offerors is expected. Therefore each initial offer should contain the offeror's best terms from a price and technical standpoint. Offerors are encouraged to submit any questions they have relative to the solicitation in writing during the proposal preparation period, pursuant to the solicitation instructions provided at Section L.7 of the solicitation.

The price schedules in this solicitation are unique to ESPC contracting. What are considered clear instructions for their completion are provided on the schedules themselves, and also in Section L of the solicitation. The evaluation of the presentation of the price proposal for the proposal site included in this solicitation on these schedules and in their attached support, as required by the solicitation is also critical.

The SIC Code for this proposed acquisition is 8711. It is unrestricted and contains no set-aside provisions. However, this proposed acquisition is subject to Public Law 95-507 which established a National Policy that Federal Acquisition provide maximum practicable opportunity for participation to Small Business concerns and Small Business concerns owned and controlled by socially and economically disadvantaged individuals. The Small Disadvantaged Business subcontracting goal in any Subcontracting Plan that will be made a part of an award is expected to be at least 5%.

The Government does not anticipate furnishing Government Property Facilities for performance of any delivery order projects procured against the eventual contract(s) awarded. This is because of the legislative basis for ESPC, i.e., that the ESCOs incur all up-front costs, to include financing, purchasing and installation of the energy efficient equipment that comprise the delivery order projects, and performance period costs.

An Attachment 1 to the solicitation provides Definitions of Terms Which are Applicable to this Contract, which are all considered critical to an understanding of the requirements of this solicitation. Reading these definitions prior to reading the remainder of the solicitation is highly recommended, particularly if the offeror is not familiar with ESPC contracting.

As with all Golden Field Office solicitations, this RFP will be issued via the Internet, on the GO Home Page at <http://www.eren.doe.gov/golden/solicit>. You can locate this solicitation at the home page by clicking on "Doing Business With Us," then "Solicitations," then "Part Three," and lastly the solicitation number. If you requested a paper copy of this solicitation, it is important to note that ANY AMENDMENTS WILL ONLY BE ISSUED ON THE INTERNET HOME PAGE AND WITHOUT ANNOUNCEMENT OF THEM, and therefore potential offerors must check the home page, or call or e-mail the Contracting Officer, to ensure that they are aware of and obtain them.

Your interest in the Department's solicitation is appreciated. Should you need any further assistance in determining your interest in this requirement, please contact Beth H. Peterman at (303) 275-4719, or preferably by e-mail, at beth_peterman@nrel.gov.

Sincerely,

Beth H. Peterman
Contracting Officer

SOLICITATION, OFFER AND AWARD		1. THIS CONTRACT IS A RATED ORDER		RATING	PAGE OF
2. CONTRACT NO.	3. SOLICITATION NO. DE-RP36-99GO10343	4. TYPE OF SOLICITATION <input type="checkbox"/> SEALED BID (IFB)	5. DATE ISSUED 03-17-1999	6. REQUISITION/PURCHASE NO. 36-99GO10343	
7. ISSUED BY US DEPARTMENT OF ENERGY GOLDEN FIELD OFFICE 1617 COLE BOULEVARD, BLDG. 17/3 GOLDEN, CO 80401-3393		8. ADDRESS OFFER TO (If other than Item 7)			

NOTE: In sealed bid solicitations "offer" and "offeror" mean "bid" and "bidder".

SOLICITATION

9. Sealed offers in original and * copies for furnishing the supplies or services in the Schedule will be received at the place specified in Item 8, or if handcarried, in the depository located in with the receptionist at Bldg. 17/3 til 3:00 pm local time 05-11-1999
(Hour) (Date)

*See Section L.9, Time, Date and Place Proposals Are Due.

10. FOR INFORMATION	A. NAME	B. TELEPHONE NO. (Include area code) (NO COLLECT
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X	B	SUPPLIES OR SERVICES AND PRICES/COSTS	-3	PART III - LIST OF DOCUMENTS, EXHIBITS AND OTHER ATTACH.			
X	C	DESCRIPTION/SPECS/WORK STATEMENT		X	J	LIST OF ATTACHMENTS	
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X	H	SPECIAL CONTRACT REQUIREMENTS					

OFFER (Must be fully completed by offeror)

NOTE: Item 12 does not apply if the solicitation includes the provisions at 52.214-16, Minimum Bid Acceptance Period.

12. In compliance with the above, the undersigned agrees, if this offer is accepted within 150 calendar days (60 calendar days unless a different period is inserted by the offeror) from the date for receipt of offers specified above, to furnish any or all items upon which prices are offered at the price.

13. DISCOUNT FOR PROMPT PAYMENT	10 CALENDAR DAYS	20 CALENDAR DAYS	30 CALENDAR DAYS	CALENDAR
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14. ACKNOWLEDGMENT OF AMENDMENTS (The offeror acknowledges receipt of	AMENDMENT NO.	DATE	AMENDMENT NO.	DATE

15A. NAME and ADDRESS OF OFFEROR	SOLICITATION CODE for offerors	FACILITY	16. NAME AND TITLE OF PERSON AUTHORIZED TO SIGN OFFER (Type or Print)
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15B. TELEPHONE NO. (Include area	15C. CHECK IF REMITTANCE ADDRESS	17. SIGNATURE	18. OFFER DATE
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AWARD (To be completed by Government)

19. ACCEPTED AS TO ITEMS NUMBERED	20. AMOUNT	21. ACCOUNTING AND APPROPRIATION
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22. AUTHORITY FOR USING OTHER THAN FULL AND OPEN COMPETITION:	23. SUBMIT INVOICES TO ADDRESS SHOWN IN (4 copies unless otherwise specified)	ITEM
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24. ADMINISTERED BY (If other than Item 7)	CODE	25. PAYMENT WILL BE MADE BY	CODE
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26. NAME OF CONTRACTING OFFICER (Type or print)	27. UNITED STATES OF AMERICA	28. AWARD DATE
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IMPORTANT - Award will be made on this Form, or on Standard Form 26, or by other authorized official written notice.

NSN 7540-01-152-8064

33-133

PREVIOUS EDITION NOT USABLE

STANDARD FORM 33 (REV. 4-85)

Prescribed by GSA

FAR (48 CFR) 53.214(c)

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PART I - THE SCHEDULE
SUPPLIES OR SERVICES AND PRICES/COSTS

B.1 ITEMS BEING ACQUIRED/TOTAL PRICE

The Contractor shall furnish all personnel, facilities, equipment, material, supplies, and services (except as may be expressly set forth in this contract as furnished by the Government) and otherwise do all things necessary for, or incident to, performance of the following items of work:

Item 1 - Provide energy savings performance contracting (ESPC) services for federal facilities located in the United States and its territories.

The services shall be provided in accordance with not only the Statement of Work provided in Section C (Description/Specifications/Work Statement) of this Request for Proposals (RFP), but also in accordance with all provisions in other sections of the RFP, as well as all of its Attachments. Definitions of terms applicable to this contract are provided at Attachment 1 to this solicitation.

(NOTE: There are no Reporting Requirements for this IDIQ contract award. The Anticipated Reporting Requirements for Delivery Order awards against the contract(s) resulting from this RFP are included as Attachment 4 to this RFP, for planning and pricing purposes only; they are NOT Reporting Requirements for awards resulting from this RFP. The ordering agency for a specific delivery order project will include the actual reporting requirements in each specific delivery order issued against this contract.)

UP TO THREE (3) (SEE SECTION L.18, NUMBER OF AWARDS) MAY BE AWARDED AS A RESULT OF THIS SOLICITATION. THE TOTAL MAXIMUM CONTRACT VALUE, INCLUSIVE OF CONTRACTS ISSUED TO ALL Awardees AS A RESULT OF THIS SOLICITATION, IS ESTIMATED NOT TO EXCEED:

\$25,000,000

THE MINIMUM TOTAL ORDER(S) VALUE FOR **EACH** CONTRACT ISSUED TO AN Awardee AS A RESULT OF THIS SOLICITATION SHALL BE:

\$25,000

B.2 REQUIRED SERVICES

The Government requires energy savings performance contracting (ESPC) services for Government facilities located in the areas described in Provision B.1 above, and seeks to obtain these services using indefinite delivery, indefinite quantity (IDIQ) energy savings performance contract(s) (ESPCs).

The successful awardee(s) will provide, at no capital cost to the Government, all labor and material to provide solar ventilation pre-heat energy supply systems and related energy efficiency measures to reduce energy consumption, and provide energy cost savings and related operations and maintenance cost savings at specific sites covered by delivery orders placed against the IDIQ contract(s) awarded. Contracted delivery order services may also include operations and maintenance services during a specific delivery order term as required in Section C of and the Attachments to this RFP, the specific delivery order, and/or as proposed by the contractor and accepted by the Government in a delivery order award.

B.3 52.216-22 INDEFINITE QUANTITY (OCT 1995)

- (a) This is an indefinite delivery, indefinite-quantity (IDIQ) contract for the supplies or services specified, and effective for the period stated, in the Schedule. The quantities of supplies and services specified in the Schedule are estimates only and are not purchased by this contract.
- (b) Delivery or performance shall be made only as authorized by orders issued in accordance with the Ordering clause. The Contractor shall furnish to the Government, when and if ordered, the supplies or services specified in the Schedule up to and including the quantity designated in the Schedule as the "maximum". The Government shall order at least the quantity of supplies or services designated in the Schedule as the "minimum".
- (c) Except for any limitations on quantities in the Order Limitations clause or in the Schedule, there is no limit on the number of orders that may be issued. The Government may issue orders requiring delivery to multiple destinations or performance at multiple locations.
- (d) Any order issued during the effective period of this contract and not completed within that period shall be completed by the Contractor within the time specified in the order. The contract shall govern the Contractor's and Government's rights and obligations with respect to that order to the same extent as if the order were completed during the contract's effective period.

B.4 ORDERING

- (a) Any services to be furnished under this contract shall be ordered by issuance of delivery orders by an authorized Contracting Officer for a United States federal agency. Agency Contracting Officers shall submit draft delivery order requests for proposal (DO RFPs) and delivery orders, prior to issuance, to the DOE Contracting Officer for this contract to obtain his/her review and concurrence, unless or until otherwise indicated/rescinded by a DOE Contracting Officer letter to the Agency Contracting Officer.
- (b) Such orders may be issued beginning on the date of contract award through October 01, 2003. At the Government's discretion, the ordering period may end on this date, which is the conclusion of the year legal authority that started with the issuance of the regulation on ESPC on April 10, 1995, and which was extended by P.L. 105-388 to October 01, 2003. However, the Government intends to modify the contract at a future date to extend the ordering period as permitted by further legislation.
- (c) All delivery orders are subject to the terms and conditions of this contract, except as modified or superseded by the terms and conditions of a specific delivery order, as permitted by the contract. In the event of a conflict between a delivery order and this contract, the contract provisions shall take precedence, except as permitted by the contract to have the delivery order provisions override them.
- (d) If mailed, a delivery order is considered "issued" when the Government deposits the order in the mail. All delivery orders shall be in writing, and duly signed by an authorized Contracting Officer of a United States federal agency.

B.5 52.216-19 ORDER LIMITATIONS (Modified) (OCT 1995)

- (a) The Government estimates it will procure, and thereby establishes as a maximum order amount for the total of all contract awarded as a result of this solicitation of not-to-exceed \$25,000,000 of ESPC services during the twenty-five (25) year term(s) of the contract(s) awarded. Also, the Government guarantees that a minimum of \$25,000 in sum total of periodic payments for ESPC services shall be awarded to EACH contractor receiving an award during that same 25-year ordering period. (See limitation on ordering in Section B.4.) Therefore, the Government is not obligated to procure from any one contractor receiving an award as a result of this solicitation, services that exceed a total value of \$25,000. (This value of services may be represented by anything from a single delivery order for one project, to a number of delivery orders for various projects.) The contractor is likewise never obligated to provide offers for specific proposed delivery order projects, accept orders, or furnish services against this contract.
- (b) Notwithstanding paragraph (a) above, the contractor shall honor any order received, including orders exceeding the maximum order limitation identified in paragraph (a), unless that order (or orders) is returned to the Contracting Officer within thirty (30) days after issuance, with written notice stating the contractor's intent not to provide the services called for, and the reasons therefor. Upon receiving this notice, the Government may acquire the supplies or services from another awardee from this solicitation.

B.6 REQUIRED IDIQ SCHEDULES

The IDIQ Schedules in Part III, Section J, Attachment 2 of this solicitation require completion and submission, in accordance with the instructions included in Part IV, Section L, Section L.32.1. Any contract(s) awarded as a result of this solicitation shall include these negotiated schedules, the information in which shall be binding on the contractor(s) throughout the period of performance of the contract(s), and apply to all delivery orders issued against the contract(s). Following are descriptions of each of the six (6) schedules:

SCHEDULE IDIQ-I IDIQ CONTRACT MARK-UPS

Schedule IDIQ-I specifies the maximum mark-up that will be applied to all delivery orders issued under the contract during the contract identified ordering period.

SCHEDULE IDIQ-II IDIQ CONTRACT PROJECT FINANCE CHARGES

Schedule IDIQ-II provides the maximum, fixed, annual percentage rates by dollar value and project term that, when added to current Treasury Bill/Note rates associated with the terms of the projects will be the total percentage project finance charges (not including finance processing fees) that the contractor will charge the Government as a total finance charges for Solar Ventilation Air Pre-heating Systems (SVPS)/ECM delivery order projects. The finance charges that shall apply to an individual delivery order shall be based on the Treasury Bill/Note identified in the delivery order project proposal plus the negotiated additional percentage rate, in accordance with the IDIQ-II contract maximum.

SCHEDULE IDIQ-III IDIQ CONTRACT IMPLEMENTATION PERIOD PRICE ELEMENTS

Schedule IDIQ-III provides the elements of direct cost that compose the implementation period (installation) price under the contract. Implementation period price elements will remain unchanged through the term of the contract.

**SCHEDULE IDIQ-IV IDIQ CONTRACT IMPLEMENTATION PERIOD MARK-UP
ELEMENTS**

Schedule IDIQ-IV provides the elements of mark-up for the SVPS/ECM implementation period of a project term. Mark-up elements will remain unchanged through the term of the contract.

SCHEDULE IDIQ-V IDIQ CONTRACT PERFORMANCE PERIOD PRICE ELEMENTS

Schedule IDIQ-V provides the elements of direct cost that compose the performance period price under the contract. Performance period price elements will remain unchanged through the term of the contract.

SCHEDULE IDIQ-VI IDIQ CONTRACT PERFORMANCE PERIOD MARK-UP ELEMENTS

Schedule IDIQ-V provides the elements of mark-up for the SVPS/ECM performance period of a project term. Mark-up elements will remain unchanged through the term of the contract.

SECTION C - DESCRIPTION/SPECIFICATIONS/WORK STATEMENT

C.1 GENERAL REQUIREMENTS/PROJECT SCOPE

This contract is to acquire under an energy savings performance, indefinite delivery/indefinite quantity contract (SUPER ESPC), energy conservation services to reduce the use of fossil energy by substituting solar ventilation air-preheating systems (SVPS) and energy efficiency conservation measures (ECMs) and to reduce associated utility costs (and related operations and maintenance costs) as specified in each delivery order issued against this contract. SVPS technology coupled with ECMs that are used to reduce the energy load at the facility and thereby optimize the life-cycle cost of the entire power producing and power-consuming system is envisioned as being ordered. The Contractor shall be responsible for providing all labor, material, and capital to install the SVPS and energy efficiency systems. The SVPS systems may be comprised of some or all of the following components: a device to collect solar energy, air handling and control components, bypass damper, fan unit and air distribution ducts. The contractor shall also be responsible for the associated energy conservation technologies needed to optimize the systems performance as specified in each delivery order, also providing operations and maintenance as specified in each delivery order. The scope of this contract includes all federally-owned facilities located in the United States and U.S. Territories, and internationally, unless otherwise restricted by each delivery order. The non-renewable energy cost savings provided by a delivery order project against this contract shall be verified annually.

Any payments for an optimized SVPS/ECM project must be covered by the reduction in energy and related operation and maintenance costs incurred at the federally-owned facility. Following are examples of acceptable sources of reduced energy and related operations and maintenance costs that may be considered:

(1) Potentially avoidable costs:

- (a) Utilities and fuel energy costs savings through load reduction from a building's conventional heating system.
- (b) The reduced cost of all materials and labor used to operate and maintain the current system. This would include the cost of oil, filters, replacement parts, etc.
- (c) The cost of fuel transport. This includes the cost of labor to transport fuel, the cost of the fuel to power the vehicle to transport the fuel, and the cost of the maintenance of the vehicle.
- (d) For a site that is scheduled to be developed, as long as the SVPS system is replacing or reducing the size of another system which was planned and budgeted for, the avoided cost of building, designing and installing the alternative system is an acceptable cost savings.

(2) Environmental Externalities:

- (a) If the SVPS system provides a means to offset the cost of air emissions, permits or impending fines, these offset costs are considered cost savings.
- (b) If the agency, state or local government or utility offers any cash incentive(s) for avoided air pollutants or reduced greenhouse gas emissions that will be provided by the SVPS system, these are considered cost savings if paid to the agency or considered in the price of the delivery order project. (If paid to the contractor, the savings shall be passed on to the Government in the form of lower payments or a shorter delivery order term.)

As indicated, the scope of this contract includes all federally owned facilities located in the United States, its territories and internationally. Delivery orders against this contract may be issued by any authorized Contracting Officer for a federal agency in accordance with the Ordering clause at Section B.4(a)

Specific projects to be procured by issuance of delivery orders against this contract shall be defined by the ordering agency contracting office is a Delivery Order Request for Proposal (DO RFP) format which has been developed by DOE for use by any agency Contracting officer requesting it, or in a comparable, usable and consistent format developed by the ordering agency. Any changes and/or additions to the required contract terms and conditions included in the DO RFP shall be made in accordance with what is permitted by the contract terms and conditions. (See Section H.23.)

C.2 SOLAR VENTILATION AIR-PREHEATING SYSTEMS/ENERGY CONSERVATION MEASURES (SVPS/ECMs)

C.2.1 Types of SVPS/ECMs

This contract and its delivery orders provide for the use of solar collectors as space heating technology that reduces the load on a building's heating system by heating intake air with solar energy, hereafter known as Solar Ventilation Air-Preheating Systems(SVPS), and other types of energy conservation measures that together with an SVPS system, comprise a total energy savings project.

C.2.2 Other Types of Energy Conservation Measures

In addition, this contract and its delivery orders provide for the use of additional energy conservation measures which are needed for the purpose of supply/demand system optimization. The objective is to develop an optimized energy system, in terms of both energy supply and demand. An optimized system will result in the best value delivered to the Federal Government and will have an effect on the energy savings delivered to the Government as a result of the use of the renewable energy system identified above. Therefore, the contractor shall either possess the capability to implement these additional ECM's, or demonstrate that he can obtain the necessary expertise to implement any of the additional ECMs listed below via subcontracting or teaming:

1. Boiler Improvements, such as, but not limited to
 - boiler control improvements
 - upgrade of natural gas-fired boilers with new controls
2. Chiller Improvements, such as, but not limited to
 - chiller retrofits or replacements
3. Building Automation Systems (BAS) / Energy Management Control Systems (EMCS), such as, but not limited to
 - HVAC upgrade from pneumatics to Direct Digital Control (DDC)
 - Upgrade or replace existing EMCS system
4. Heating, Ventilating, and Air Conditioning (not including boilers, chillers, and EMCS) such as, but not limited to
 - packaged air conditioning unit replacements
 - HVAC damper and controller repair or replacement
 - replace air conditioning and heating units with heat pumps
 - window air conditioning replacement with high efficiency units
 - cooling tower retrofits or replacements
 - economizer installation
 - fans and pump replacement or impeller trimming
 - thermal energy storage
 - variable air volume (VAV) retrofit

5. Lighting Improvements, such as, but not limited to
 - interior and exterior lighting replacements
 - lighting control improvements
 - occupancy sensors
 - LED exit sign installation
 - daylighting
6. Building Envelope Modifications, such as, but not limited to
 - insulation installation
 - weatherization
 - window replacement
 - reflective solar window tinting
7. Chilled Water and Chilled Water Piping Systems, Hot Water and Steam Distribution Systems, such as, but not limited to
 - hot water heaters
 - steam trap maintenance and replacement
8. Electric Motors and Drives, such as, but not limited to
 - motor replacement with high efficiency motors
 - variable speed motors or drives
9. Refrigeration, such as, but not limited to
 - replace ice/refrigeration equipment with high efficiency units
10. Electrical or Cogeneration Systems, such as, but not limited to
 - Natural Gas Fired Generator with Heat Recovery for Producing Steam
 - Peak shaving
11. Renewable Energy Systems, such as, but not limited to
 - photovoltaic system installation
 - solar hot water system installation
 - wind energy system installation
 - passive solar heating
12. Electric Distribution Systems, such as, but not limited to
 - transformers
 - power quality upgrades
 - power factor correction
13. Water and Sewer Conservation Systems, such as, but not limited to
 - low-flow plumbing equipment
 - water efficient irrigation
 - on-site sewer treatment systems
14. Rate Reduction and Auditing Services, such as, but not limited to
 - energy service billing and meter auditing

C.2.3 Restrictions on proposed SVPS/ECMs

SVPS/ECM's installed by the contractor shall not do the following:

1. Result in an adverse effect upon the quality of the human environment (e.g. requires the preparation of an Environmental Impact Statement) or violates any Federal, State, or local environmental protection regulations
2. Degrade performance or reliability of existing Government equipment
3. Jeopardize the operation or environmental conditions of existing systems or areas such as dedicated computers or computer rooms;
4. Reduce extra capacity that was intentionally included for future growth, mobilization needs, safety, or emergency back-up;
5. Violate current versions of national (i.e., National Electric Code, Uniform Building Code, National Historic Preservation Act, etc.), State or local building codes.
6. Create unsafe conditions or otherwise negatively impacts government facilities, operations, and/or personnel.

Any additional restrictions on SVPS/ECM's will be specified in delivery orders issued against the contract.

C.2.4 Requirements for SVPS/ECMs

Installed SVPS/ECMs shall not only comply with contract requirements, but also with the requirements of each delivery order. Requirements also incorporate all Government approved contractor submittals, including equipment design and installation specifications, compliance with codes and standards, design drawings, installation schedules, startup and testing procedures, operating and maintenance procedures, and any other submittals incorporated in delivery orders issued under the contract.

C.3 FACILITY PERFORMANCE REQUIREMENTS OF SVPS/ECMs

Installed SVPS and related ECM's shall meet the performance requirements specified below unless stated otherwise in a specific delivery order:

- C.3.1 Environmental & Lighting Conditions:** Modifications to facility systems and environmental control systems shall not be permitted to exceed the ranges for Standards of Service specified in a specific delivery order. Where automated control of environmental conditions are to be installed, the occupants must have the ability to override the system to accommodate required overtime work.
- C.3.2 Standards of Service:** Installed SVPS/ECM's shall comply with the Standards of Service required for facilities as specified in each delivery order. The standards of service will include acceptable ranges, of operating and system parameters, and other related factors. Capacity of the power system to provide for the load shall be at least as great or greater than that of the existing system. Notwithstanding the previous sentence, the contractor shall add soft motor starts and other technologies for minimizing the peak demand of the load and the size of the power conditioning equipment needed to meet the load.

C.4 MEASUREMENT AND VERIFICATION OF SVPS/ECM PERFORMANCE

This section provides an overview of the different measurement and verification (M&V) procedures and options that the contractor may be required to follow at different Federal facilities where they install SVPS and ECMs. Each delivery order awarded shall specify the specific M&V requirements and procedures that shall apply to the delivery order based on various factors such as type of SVPS/ECM projected value of energy savings, certainty/uncertainty of savings being achieved, and the intended risk allocation between the Federal agency and the contractor.

The contractor shall comply with the version of the DOE/FEMP M&V Guidelines for Federal Energy Projects in effect at the time of delivery order award. (Note: the M&V guidelines currently only address energy conservation measures).

C.4.1 M&V General Approach

Measurement and verification (M&V) of projects has two components:

1. Confirming that (a) the baseline conditions were accurately defined and; (b) the proper equipment/systems were installed and they have the potential to generate the predicted savings. This confirmation verifies the SVPS/ECM's potential to perform.
2. Determining the actual energy savings achieved by the installed SVPS/ECM which verifies the SVPS/ECM's performance.

The general approach to verifying baseline and post-installation conditions involves inspections, spot measurement tests, renormalized computer models, short and long term monitoring, and/or commissioning activities.

The general approach to determining non-renewable energy savings involves comparing energy use associated with a facility, or certain systems within a facility, before and after installation of the SVPS and ECMs. The before case is called the baseline. The after installation case is called the post-installation case. Therefore, Energy savings = baseline energy use - post installation energy use

For SVPS, M&V is potentially simplified by the ability to measure delivered solar energy as the product of the air mass flow rate, specific heat and elevation in temperature, integrated over time.

As the ESPC program is based on "pay for performance," each SVPS/ECM project site covered by a delivery order has a site-specific verification plan to determine the achieved savings. For each site, the project baseline and post installation energy use are defined using a combination of metering, billing analysis and/or engineering calculations, and/or long term monitoring of performance of short term monitoring used to calibrate a performance model. The M&V program may range from stipulation of savings based on engineering calculations to very detailed monitoring, depending on the needs of the agency specified in each delivery order. In addition, values for certain factors affecting energy use and savings, and that are beyond the control of the contractor, may be stipulated by the federal agency.

After each project is installed, the contractor shall submit a report that defines projected energy and other dollar savings for the first year. Typically, first year payments to the contractor will be based on the projected savings values submitted in the report. The post installation report must be accepted and approved by the federal agency.

For the remaining years of the delivery order term, the contractor provides annual (or at some other regular interval) "true-up" reports. These reports include inspection documentation of the installed equipment/systems and (perhaps) updated savings values using data obtained and analyzed during each year of the delivery order. As necessary, previous year's payments would be reconciled based on the results of the annual report. Future year's payments would be calculated based on information in the annual report.

C.4.2 Baseline Energy Use

Baseline conditions may be defined in the delivery orders by either the federal agency or the contractor. If the baseline is defined by the federal agency, then the contractor will have the opportunity to verify the baseline. If the baseline is defined by the contractor then the federal agency will verify the baseline.

C.4.3 Post Installation Energy Use - Initial Verification

Post installation energy use will be based, in part, on verification by the contractor and the Federal agency that the proper equipment/systems were installed, are operating correctly, and have the potential to generate the predicted savings. Verification methods may include visual inspections, spot or short-term metering, and engineering calculations.

System/equipment commissioning shall be completed by the contractor.

C.4.4 Post-Installation Energy Use - Determining Non-renewable/Conventional Energy Savings Performance and Regular Interval Verification

The contractor and federal agency, at defined intervals during the term of the delivery order, will verify that the installed equipment/systems have been properly maintained, continue to operate correctly, and continue to have the potential to generate the predicted savings.

There are numerous factors that can affect energy savings during the term of a delivery order, such as weather, operating hours, etc. In general, but not always, an ESPC delivery order objective will be to adjust the baseline energy use up or down for factors beyond the control of the contractor (e.g., building occupancy, weather) and adjust the post installation energy use for contractor-controlled factors (e.g., maintenance of equipment efficiency).

Therefore, in order to calculate energy savings, the federal agency may, under certain circumstances, stipulate the value of factors that may vary during the term of the delivery order. For example, the number of hours that lights are on could be assumed.

For other projects, continuous or regular interval measurements may be collected throughout the term of the delivery order to determine energy savings and/or production.

C.4.5 M&V Option and Method Required for Specific Project

Each delivery order shall specify the M&V option(s) and method(s) that will be used for the project(s) covered by the delivery order as well as any other specific details relevant to the M&V of the project(s) or SVPS/ECMs.

C.4.6 M&V Activities

The contractor shall perform the following required M&V activities:

1. Define a site-specific plan for the particular project being installed once the project has been fully defined and the detailed energy survey is completed; this will occur before the delivery order is awarded and the plan will be incorporated into the delivery order.
2. Define pre-installation baseline including (a) equipment/systems, (b) baseline energy use, (c) system performance factors (e.g., temperature setpoints, time clock settings, water use, etc.), and/or (d) factors that influence baseline energy use, which may include site surveys, spot--short term or long term metering, and/or analysis of billing data. The definition of pre-installation baseline may occur before or after the delivery order is awarded.
3. Define post installation including (a) equipment/systems, (b) post installation energy use and/or (c) factors that influence post installation energy use which may include site surveys or spot--short-term or long-term metering, analysis of billing data, and/or engineering calculations.
4. Conduct annual M&V activities to verify operation of the installed equipment/systems and/or calculation of current year's energy savings.

C.5 INSTALLATION REQUIREMENTS FOR SVPS/ECMS

C.5.1 SVPS and ECM Installation Plans

- a) The contractor shall prepare and submit SVPS/ECM installation plans to the Federal agency for review and approval prior to starting SVPS/ECM installation in accordance with the Reporting Requirements Checklist. Installation plans may be required to be certified by a registered engineer to assure compliance with applicable building codes and federal agency design standards. The delivery order will specify site specific requirements of SVPS/ECM installation plans. The contractor is responsible for the technical adequacy of its work. Acceptance of the installation plans by the Government shall not relieve the contractor of the requirement for adequacy of its design and installation work.
- b) The Installation plan due date will be specified in the delivery order. Upon approval of the installation plan, bonds will be required in accordance with Section H.29.
- c) SVPS/ECM installation plans shall be prepared and include, at least the following, unless otherwise specified in the delivery order:
 1. Manufacturer's Data. For all SVPS/ECM equipment to be installed the contractor shall provide the manufacturer's descriptive literature of equipment including drawings, diagrams, performance and characteristic curves, and catalog cuts.
 2. Shop Drawings. Shop drawings shall be prepared by the contractor, subcontractor, or any lower-tier subcontractor showing in detail:
 - The installation (i.e., form, fit, and attachment details) of the interface between SVPS/ECM equipment and existing Government equipment,

including structural attachments to the building and air handling equipment.

- The location of installed equipment on building floor plans.
 - Certification of SVPS/ECM Compliance with Building Codes and Standards. The Contractor shall provide registered engineer certification that SVPS/ECMs comply with all applicable building codes and standards. SVPS/ECM installation plans submitted to the Contracting Officer without evidence of the professional engineer (PE) certification required to demonstrate compliance with applicable building codes, may be returned for resubmission.
3. Planned Service Interruptions. If any utility services must be discontinued temporarily to install work, such interruptions shall be described and indicated on the project installation schedule (see subparagraph 6 below). The description shall include the length of the interruption, its time (date, day of week, time of day, etc.), and a justification.
 4. Site Plan and Compliance with Base Exterior Architectural Plan. If an SVPS/ECM involves the installation of facilities or exterior structures, the contractor shall provide a site plan showing its location. The Contractor shall also provide a plan and elevation drawings of the facility or exterior structure showing its size and exterior appearance.
 5. Acquisition of Permits. For any SVPS/ECM installation requiring permits from regulatory agencies (i.e., hot-work permit for welding), the contractor shall provide its plan and schedule for acquiring such permits.
 6. Installation Schedules. The installation schedule shall show the order in which the contractor proposes to perform the work and the dates on which the contractor contemplates starting and completing all major milestones (including acquiring materials, equipment, permits). The schedule shall be in a form of a progress chart of suitable scale to indicate the amount of work scheduled for completion by any given date during the installation period.
 7. One line electrical diagrams
 8. Bill of materials

C.5.2 Design and Construction Standards

1. Each delivery order issued will specify design and construction applicable to site or agency specific facility requirements. As a minimum, all SVPS/ECMs, work, equipment and materials required for SVPS/ECM installation shall comply with the most recent issue of the following standards:
 - National Electric Code (NEC).
 - National Electrical Safety Code (NESC).
 - National Fire Protection Association (NFPA) Standards including, but not limited to NFPA 101 - Life Safety Code.

- U.S. Department of Labor - Occupational Safety and Health Administration (OSHA) Standards.
 - National Electrical Manufacturers Association (NEMA).
 - Underwriters Laboratory (UL).
 - American Institute of Architects (AIA) Masterspec
 - National Historic Preservation Act, as applicable
 - Air Conditioning and Refrigeration Institute (ARI) Standards
 - American Society of Heating, Refrigeration and Air-Conditioning Engineers (ASHRAE) Standards
 - Illuminating Engineering Society of North American (IES) Standards
 - Uniform Building Code (UBC)
 - Uniform Plumbing Code (UPC)
 - Other design standards required by the Federal Agency issuing the Delivery Order.
2. No requirement of this solicitation shall supersede applicable regulations, local codes and/or standards. Any violation of such regulations and standards shall be brought to the attention of the Agency Contracting Officer for clarification prior to proceeding with the work.
 3. If conflicts between codes and/or standards exist, the Agency Contracting Officer's Representative and applicable authority having jurisdiction shall determine the appropriate code to follow.

C.5.3 SVPS/ECM Quality Control Inspection Program

- a) The contractor shall be responsible for quality control during installation of SVPS/ECMs. The contractor shall inspect and test all work performed during SVPS/ECM installation to ensure compliance with the delivery order's performance requirements. The contractor shall maintain records of inspections and tests, including inspections and tests conducted by or for utility or other regulatory agencies. The Contractor shall prepare a Quality Control Inspection Program for review and acceptance by the Government. The SVPS/ECM Quality Control Inspection Program shall be prepared and submitted with the SVPS/ECM Installation Plan in accordance with requirements set forth in each delivery order.
- b) The SVPS/ECM Installation Quality Control Inspection Program shall detail the procedures, instructions, and reports that ensure compliance with the delivery order and this indefinite quantity contract. This plan shall include as a minimum:
 1. The quality control organization, in chart form, showing the relationship of the quality control organization to the contractor's organization.
 2. Names and qualifications of personnel in the quality control organization.
 3. Area of responsibility and authority of each individual in the quality control organization.
 4. A listing of outside organizations, such as testing laboratories, architects, and consulting engineers that will be employed by the Contractor, and a description of the services these firms will provide.
 5. Procedures for reviewing all shop drawings, samples, certificates, or other submittals for delivery order compliance, including the name of the person(s)

authorized to sign the submittals for the Contractor, as complying with the delivery order requirements.

6. An inspection schedule, keyed to the installation schedule, indicating necessary inspections and tests, the names of persons responsible for the inspections and tests, and the time schedule for each inspection and test.
7. The procedures for documenting quality control operations, inspection, and testing, with a copy of all forms and reports to be used for this purpose. The Contractor shall include a status log listing all submittals required by the inspection plan and stating the action required by the Contractor or the Government. The Contractor shall also prepare and maintain a testing plan that shall contain a listing of all tests required by the delivery order requirements.

C.5.4 Environmental Protection

SVPS and ECMs shall cause no adverse impacts upon the quality of the human environment. Impacts on air quality (pollutants, noise level, and odors or fumes) and potable water quality and use are examples of various areas of concern at the project site. Any planned building modifications shall comply with the National Environmental Policy Act (NEPA) and other applicable Federal, state, and local environmental protection regulations. Refer to Special Contract Requirement H.21, titled "Environmental Protection." The delivery order will identify specific known hazardous waste handling and storage requirements.

The contractor shall comply with applicable Federal, state and local laws and with the applicable regulations and standards regarding environmental pollution. All environmental protection matters shall be coordinated with the Agency Contract Officer. Authorized Government officials may inspect any of the contractor's work areas on a notice basis during normal working hours. In the event that a regulatory agency assesses a monetary fine against the Government for violations caused by contractor negligence, the contractor shall reimburse the Government for the amount of the fine and other costs. The contractor shall also clean up any oil spills, hazardous wastes, and hazardous materials resulting from the contractor's operations. The contractor shall comply with the instructions of the cognizant Federal agencies' safety and health personnel to avoid conditions that create a nuisance or which may be hazardous to the health of Government or civilian personnel.

The contractor shall prepare at its expense all documentation necessary to acquire permits to comply with all applicable Federal, state and local requirements prior to implementing affected SVPS/ECMs in the performance of a delivery order. The contractor shall not receive a notice to proceed with installation until all environmental protection requirements contained in the IDIQ contract and a delivery order have been satisfied.

The contractor shall comply with 40 Code of Federal Regulations (CFR) Section 311, and with the requirements of the latest edition of the applicable Federal agency's Spill Prevention Control and Countermeasures Plan as required by a delivery order.

C.5.5 Service Interruptions

- a. For any planned utility service interruptions, the Contractor shall furnish a request to the Agency Contracting Officer's designated representative for approval at least fifteen (15) working days in advance or as specified in the delivery order. The request shall identify the affected buildings and duration of planned outage.
- b. The Government will coordinate with affected tenants and customers as applicable.

- c. If the discontinued service is due to any emergency breakdown, the Contractor shall notify the Agency Contracting Officer's designated representative as soon as possible and the Government will notify those affected tenants and customers as applicable.
- d. Federal agencies may have additional requirements that apply to specific delivery orders. These additional requirements may include liquidated damages for violations of service interruption provisions as specified in each particular delivery order.

C.5.6 As-Built Drawings

After completion of installation and Government acceptance of installed SVPS and ECMs, the Contractor shall submit as-built drawings to the Agency Contracting Officer or designated representative in accordance with agency standards or specifications identified in the delivery order.

C.6 OPERATION OF SVPS/ECMS

C.6.1 Contractor installed SVPS and ECM operations work includes all work and costs associated with operating energy producing and consuming systems. The operations work effort shall include operations tasks at specific stations, continuous or periodic equipment monitoring, and minor on-line equipment adjustments required to achieve all facility, SVPS systems and energy conservation performance requirements of this contract. In general, system shall be installed with automatic operation to minimize manual operation requirement.

C.6.2 Unless specified otherwise in the delivery order, the Contractor shall be responsible for operation of all SVPS and ECMs installed. Installed SVPS and ECMs shall include all contractor installed equipment and those portions of Government equipment which have been modified or replaced to achieve proposed SVPS and ECM performance. Examples of exceptions that may be specified in a delivery order are:

1. If the new operations work requirement for Contractor installed SVPS and ECMs is similar to an existing operations work requirement for Government-owned equipment and does not have an impact on Government resources, the Contractor may request the Government in its proposed SVPS and ECM to perform operations work on Contractor-installed equipment. The Government reserves the right not to accept operations work on installed SVPS and ECMs.
2. The Contractor finds it advantageous and proposes to assume responsibility for an operation of Government equipment to ensure that the SVPS and ECM will be implemented properly to reduce energy consumption. Any operations work provided by the contractor on Government-owned equipment shall be at the Contractor's expense.
3. The Government currently utilizes bargaining unit employees, contracted services, or in-house labor and considers it advantageous to retain operations responsibility of the installed SVPS/ECMs.

C.6.3 When the implementation of an SVPS and ECM results in a change in an existing operation's work affecting Government or Contractor equipment, the Contractor shall prepare a new written operations work procedure for approval by the Government. The due date for the operations work procedure will be specified in the delivery order. The Contractor shall train Government personnel in the new

approved operations work procedure. The Government will permit its personnel to attend training sessions at reasonable times on the specific project site's premises.

- C.6.4** The Government will use and operate Government-owned equipment, and Contractor equipment if Government assumes proposed operations work in C.7.2, 1. below, in accordance with operating procedures provided by the Contractor and approved by the Agency Contracting Officer. The Contractor shall monitor equipment performance.
- C.6.5** The Government will not move, turn off, or otherwise change any Contractor-owned equipment without the consent of the Contractor, unless such action is in accordance with the operation procedures provided by the Contractor; or if it is necessary in an emergency to prevent loss of life, injury or damage to property, or severe discomfort to Government personnel, or occupants of the facility.

C.7 MAINTENANCE OF SVPS/ECMS

- C.7.1** Maintenance work includes all work and costs associated with maintaining the delivery order's specific site energy producing and consuming systems. Maintenance work includes periodic equipment inspections, tests, calibrations, preventative maintenance tasks, and corrective maintenance actions required to ensure systems operate as intended.
- C.7.2** Unless otherwise specified in the delivery order, the Contractor shall be responsible for maintenance of all SVPS and ECMs installed. Installed SVPS and ECMs shall include all Contractor installed equipment and those portions of Government equipment that have been modified or replaced to achieve proposed SVPS and ECM performance. Examples of exceptions that may be specified in a delivery order are:
 1. If the maintenance work is similar to an existing maintenance work requirement for Government-owned equipment and does not impact on Government resources, the Contractor may request the Government in its proposal to perform maintenance work on Contractor-owned equipment. The Government reserves the right to not accept the proposed responsibility for maintenance work on installed SVPS and ECMs. If the Government accepts SVPS and ECM maintenance responsibility, the Government reserves the right to provide the maintenance work in accordance with its own schedule rather than a Contractor-suggested schedule. Examples of standard maintenance which could be accomplished by facility staff include cleaning of the collector surface and lubrication of bearings.
 2. The Contractor proposes to assume responsibility for maintenance on Government-owned equipment in order to achieve proposed SVPS and ECM performance. The Contractor may propose to provide either total maintenance or a level of maintenance needed to augment the existing maintenance provided by the Government. Any maintenance work provided by the Contractor on Government-owned systems or equipment shall be at the Contractor's expense. If the Contractor has taken over repair as well as maintenance of Government-owned systems or equipment as part of a delivery order, the delivery order shall include a definition of repair responsibility.
 3. The Government currently utilizes bargaining unit employees, contracted services, or in-house labor and considers it advantageous to retain maintenance responsibility of installed

SVPS/ECMs.

- C.7.3** When the implementation of a SVPS and/or ECM changes existing equipment maintenance schedules, the Contractor shall prepare a new written maintenance work procedure for approval by the Government. The due date for the maintenance work procedure will be specified in the delivery order. The Contractor shall train Government personnel in the new approved maintenance work procedure. The Government will permit its personnel to attend training sessions at mutually agreed to times on the specific project site's premises.
- C.7.4** The Government will maintain Government-owned equipment, and Contractor equipment if the Government assumes the proposed operations work in C.7.2, 1. above, in accordance with maintenance procedures provided by the Contractor and approved by the Agency Contracting Officer.
- C.7.5** The Government will not move, turn off, or otherwise change any Contractor-owned equipment without the consent of the Contractor, unless such action is in accordance with the maintenance procedures provided by the Contractor, or if it is necessary in an emergency to prevent loss of life, injury or damage to property, or severe discomfort to Government personnel, or occupants of the facility.

C.8 REPAIR OF SVPS/ECMS

- C.8.1** Repair work includes all labor, material and equipment associated with the replacement or rebuilding of facilities, systems and equipment required for SVPS/ECM performance, that have failed or are determined by the Government to be in a condition of imminent failure, and/or diminished SVPS/ECM performance.
 - 1. Contractor-Owned Items. When Contractor-owned facilities, systems, and equipment fail, the Contractor shall be responsible for repairs.
 - 2. Government-Owned Items. When Government-owned facilities, systems, and equipment fail, the Government will be responsible for repairs within a reasonable time period. The Contractor shall provide repairs, at no expense to the Government, if the Government-owned facilities, systems, and equipment failure is a result of actions on the part of the Contractor. The Contractor shall make repairs within a period of time as specified in the delivery order. If the Contractor elects to assume repair responsibilities for Government-owned systems or equipment as part of a SVPS and ECM proposal, the delivery order shall include a listing of the types of repairs that will be the Contractor's responsibility.

C.9 CONTRACTOR MAINTENANCE AND REPAIR RESPONSE TIME

- C.9.1** The Contractor shall establish a point of contact (name and phone number) for use by the Government in providing responses to Contractor equipment failures. The point of contact shall be available as specified in the delivery order throughout the delivery order's term. Initial telephone response to repair call messages shall be within the time frame specified in the delivery order. If a site visit is needed to repair equipment, repair personnel shall arrive on site within the time frame specified in the delivery order of the initial telephone response for non-emergency repairs or within the time frame specified within the delivery order for emergency repairs. Although normal contractor access is during the normal work hours specified for the specific site in the delivery order, the Contractor may be granted 24-hour per day access to the buildings for emergency work, unless otherwise restricted in the delivery order.
- C.9.2** Emergency maintenance and repair work is defined as specified in the delivery order.
- C.9.3** In the event the Contractor fails to respond as required in the delivery order or in the event of an emergency, the Government may perform emergency repairs to Contractor-owned equipment. The Contractor shall hold the Government harmless in such cases where the Contractor fails to respond in emergencies.

C.10 OPERATIONS AND MAINTENANCE MANUALS AND TRAINING FOR SVPS/ECMS**C.10.1 Operations and Maintenance Manuals**

The Contractor shall furnish operation and maintenance (O&M) manuals and recommended spare parts lists for O&M of the Contractor-installed SVPS and ECMs and modified Government equipment. O&M plans and spare parts lists shall be submitted per requirements set forth in the delivery order.

C.10.2 Government Personnel Training for SVPS and ECMs

1. After installation completion and prior to acceptance of the retrofit system equipment, the Contractor shall train Government personnel as required to operate, maintain, and repair SVPS and ECM equipment and systems in the event of emergencies.
2. The Contractor shall train Government personnel to operate, maintain, and repair SVPS and ECM equipment ninety (90) days prior to the end of delivery order's term.
 - a. Training Program - General Requirements: The Contractor shall provide a training program for Government personnel as specified below. The program shall provide instruction on operation, troubleshooting, maintenance, and repair of SVPS and ECMs. Training shall include both a classroom phase and a practical application phase. The training shall be videotaped and provided to the Government for subsequent training of new personnel. The course material shall include the operation and maintenance plans and manuals. The program shall be conducted at the delivery order's specified site(s) in facilities provided by the Government.

C.11 GOVERNMENT PROJECTS

There shall be no restriction on Government projects of any kind including those that may provide energy conservation equipment, the removal of existing energy consuming equipment, or the addition of new energy consuming equipment for mission needs. The Government shall notify the Contractor when Government projects are to be implemented which may impact the installation or operations of Contractor installed SVPS and ECMs.

C.12 AVAILABILITY OF UTILITIES

The Government will furnish water and electric current at existing outlets as may be required for the installation work to be performed under the delivery order at no cost to the Contractor. The Contractor at its expense and in a workmanlike manner satisfactory to the Agency Contracting Officer shall install and maintain all necessary temporary connections and distribution lines for each utility. Information concerning the location of existing outlets may be obtained from the Agency Contracting Officer or the Agency Contracting Officer's designated representative. The Contractor shall remove all the temporary connections, distribution lines, and associated equipment upon completion of the installation work.

C.13 CONTRACTOR-FURNISHED MATERIAL

The Contractor shall provide all materials and supplies necessary to perform the work as specified in the delivery order. Materials and supplies provided shall be of acceptable industrial grade and quality and in compliance with any applicable industry standards (i.e., Underwriters Laboratories, etc.). All such materials and supplies must be compatible and operate safely with existing systems equipment.

C.14 SALVAGE

All material and equipment which was identified in the Contractor's proposal for each SVPS/ECM to be removed or disconnected during the installation phase shall remain the property of the Government and shall be moved by the Contractor at its expense to a Government designated space for storage. The Government will identify the equipment it wants stored. Any material and equipment not to be stored and all debris resulting from the work under a delivery order shall be removed from the site by the Contractor at its own expense.

C.15 ASBESTOS AND OTHER HAZARDOUS MATERIALS

As part of each SVPS/ECM project proposed, it is preferred that the contractor include the cost of removal of any hazardous-containing material in each contractor-proposed SVPS/ECM that involves the removal of such. If the need for removal of hazardous material is known by the contractor, but the cost is not included in the SVPS/ECM project proposal, this need shall be identified by the contractor in the proposal.

Should the contractor propose and receive and award for a SVPS/ECM project, and hazardous material is identified after award, the contractor shall immediately stop work, take measures to reduce the contractor or building personnel contamination, and immediately notify the Agency Contracting Officer for the delivery order project and the building manager of the hazardous material condition and its location. The Government shall then either:

- (a) remove and dispose of the material itself, by its own personnel or by separate contract award; or
- (b) give the contractor the option of removing and disposing of the material at its expense, via a renegotiation of either the guaranteed savings and contractor payments for the project and/or the delivery order project term, or by separate award for the effort. If the contractor performs the effort, he shall be required to remove the hazardous material in the manner agreed upon by the parties, and any equitable adjustment necessary due to the change to or elimination of the SVPS/ECM involved to shall be handled as a delivery order modification.

Specific delivery order will specify the requirements if different than the above, and/or as known at time of award.

C.16 DISPOSAL

Debris, rubbish and nonusable material resulting from the work shall be removed from Government property by the Contractor at contractor expense, with especial care as indicated below:

C.16.1 Hazardous Material Handling and Disposal

Hazardous wastes resulting from contractor-owned material and equipment must be disposed of in accordance with the Resource Conservation and Recovery Act and all applicable Federal, state and local regulations. All shipping manifests for hazardous waste must be signed by the authorized Federal personnel for the project site, as well as by the Contractor prior to transfer off-site. The federal agency's generator number will be entered on the manifest. The delivery order may provide additional site specific requirements.

C.16.2 PCB Handling and Disposal

If PCB ballasts exist at the site covered by a delivery order, then the delivery order shall contain the necessary provisions addressing PCB recycling and/or disposal requirements to comply with applicable state and local regulations. The delivery order will provide additional site specific PCB handling and disposal requirements, if applicable.

C.17 SAFETY REQUIREMENTS

All work shall be conducted in a safe manner and shall comply with the requirements in the Army Corps of Engineers Safety Manual and the Accident Prevention clause in Section I of this contract (FAR 52.236-13). The Government will not provide safety equipment to the Contractor. Additional safety requirements may be included in delivery orders based on individual Federal agency implementing regulations, and/or specific requirements of the delivery order projects.

Other specific requirements relative to safety are as follows:

- a. Prior to commencing work, the Contractor shall meet with the Agency Contracting Officer and the Agency COR to agree upon administration of the safety program.
- b. The Contractor's workplace may be inspected periodically for OSHA violations. Abatement of violations shall be the responsibility of the Contractor and/or the Government as determined by the Contracting Officer. The Contractor will provide assistance to the Government representative and Federal or state OSHA inspector if a complaint is filed. Any fines levied on the Contractor by Federal or state OSHA offices due to safety/health violations will be paid promptly by the Contractor.
- c. In accordance with the Accident Prevention clause in Section I referenced above, the Contractor shall

report to the Contracting Officer all accidents within twenty-four (24) hours of their occurrence.

- d. Also in accordance with the Accident Prevention clause in Section I, the Contractor shall submit to the Agency Contracting Officer a full report of damage to Government property and equipment by contractor's employees or contractor's subcontractors, at any tier. All damage reports shall be submitted to the Agency Contracting Officer within twenty-four (24) hours of the occurrence.
- e. The contractor shall be solely responsible for initiating, maintaining, and supervising all safety provisions, precautions and programs in the course of the performance of this contract. The contractor shall take adequate steps and precautions for and shall provide adequate protection to prevent damage, injury, damage or loss to (1) both Government or contractor personnel involved in the performance of the work under this contract, and to other persons who may be affected thereby; (2) materials and equipment to be installed, whether in storage on or off the project site, under the care, custody or control of the contractor or lower tier subcontractors; (3) and other property that may be present at the job site and adjoining areas. The contractor shall erect and maintain, as required by existing conditions and performance of the subcontract, adequate safeguards for safety and protection, including providing adequate lighting and ventilation, posting of danger signals and other warning signs against hazards, promulgating safety regulations, and notifying the Agency COR and other subcontractors at or near the project site and adjacent sites.

SECTION D - PACKAGING AND MARKING

D.1 RESPONSIBILITY

The contractor shall be responsible for acquiring, shipping, marking, packaging, storing, and installing (and maintaining if indicated in the delivery order) all supplies, equipment, and materials required to implement SVPS/ECMs accepted and approved by the Agency Contracting Officer during negotiations for specific delivery order projects.

D.2 PACKAGING

Preservation, packaging, and packing for shipment or mailing of all deliverables against this contract, as well as against specific delivery orders, shall be in accordance with good commercial practice and adequate to insure acceptance by common carrier and safe transportation at the most economical rates.

D.3 MARKING

- (a) Each package, report or other deliverable against this contract, as well as against specific delivery orders, shall be accompanied by a letter or other document which:
 - (1) Identifies the contract by number, as well as the specific delivery order if applicable, under which the item is being delivered;
 - (2) Identifies the deliverable Item Number or Report Requirement which requires the delivered item(s); and
 - (3) Indicates whether the contractor considers the delivered item to be a partial or full satisfaction of the requirement.
- (b) For any package, report or other deliverable being delivered to a party other than the Contracting Officer (either the DOE Contracting Officer for the contract or the Agency Contracting Officer for a specific delivery order), a copy of the document required in (a) above shall be simultaneously provided to the office administering the contract, as identified in Section G of the delivery order, or if none, to the DOE Contracting Officer.

D.4 SHIPMENTS

All shipments to and from the specific delivery order site shall be at the contractor's expense. The contractor shall supervise the packing, unpacking, and placement of equipment and systems and shall do so without charge to the Government.

D.5 DELIVERY AND STORAGE

The contractor shall properly store, adequately protect and carefully handle all equipment and materials to prevent damage. Delivery orders may specify any special State and local or agency-specific requirements for hazardous waste handling, storage, shipping and disposal as required for known or anticipated generation of hazardous waste. (See Provision C.16, "Disposal," in the statement of work at Section C.)

SECTION E - INSPECTION AND ACCEPTANCE

E.1 INSPECTION

Inspection of all items and services provided under this contract, or by any delivery order issued against it, shall be accomplished by the DOE Contracting Officer's Representative (COR) for the contract, or the COR designated by the ordering agency in a specific delivery order, or their duly designated representatives, and will be conducted in accordance with the provisions and clauses of that title found in Section E below.

E.2 ACCEPTANCE

Acceptance of all work and effort under this contract or any delivery order issued against it (including "Reporting Requirements," if any) shall be accomplished by the DOE Contracting Officer for the contract, or the agency Contracting Officer for a specific delivery order, or any duly designated representative of each.

E.3 52.246-12 INSPECTION OF CONSTRUCTION - FIXED PRICE (AUG 1996)

- (a) Definition.

"Work" includes, but is not limited to, materials, workmanship, and manufacture and fabrication of components.
- (b) The Contractor shall maintain an adequate inspection system and perform such inspections as will ensure that the work performed under the contract conforms to contract requirements. The Contractor shall maintain complete inspection records and make them available to the Government. All work shall be conducted under the general direction of the Contracting Officer and is subject to Government inspection and test at all places and at all reasonable times before acceptance to ensure strict compliance with the terms of the contract.
- (c) Government inspections and tests are for the sole benefit of the Government and do not:
 - (1) Relieve the Contractor of responsibility for providing adequate quality control measures;
 - (2) Relieve the Contractor of responsibility for damage to or loss of the material before acceptance;
 - (3) Constitute or imply acceptance; or
 - (4) Affect the continuing rights of the Government after acceptance of the completed work under paragraph (i) below.
- (d) The presence or absence of a Government inspector does not relieve the Contractor from any contract requirement, nor is the inspector authorized to change any term or condition of the specification without the Contracting Officer's written authorization.

- (e) The Contractor shall promptly furnish, at no increase in contract price, all facilities, labor, and material reasonably needed for performing such safe and convenient inspections and tests as may be required by the Contracting Officer. The Government may charge to the Contractor any additional cost of inspection or test when work is not ready at the time specified by the Contractor for inspection or test, or when prior rejection makes re-inspection or retest necessary. The Government shall perform all inspections and tests in a manner that will not unnecessarily delay the work. Special, full size, and performance tests shall be performed as described in the contract.
- (f) The Contractor shall, without charge, replace or correct work found by the Government not to conform to contract requirements, unless in the public interest the Government consents to accept the work with an appropriate adjustment in contract price. The Contractor shall promptly segregate and remove rejected material from the premises.
- (g) If the Contractor does not promptly replace or correct rejected work, the Government may:
 - (1) by contract or otherwise, replace or correct the work and charge the cost to the Contractor; or
 - (2) terminate for default the Contractor's right to proceed.
- (h) If, before acceptance of the entire work, the Government decides to examine already completed work by removing it or tearing it out, the Contractor, on request, shall promptly furnish all necessary facilities, labor, and material. If the work is found to be defective or non-conforming in any material respect due to the fault of the Contractor or its subcontractors, the Contractor shall defray the expenses of the examination and of satisfactory reconstruction. However, if the work is found to meet contract requirements, the Contracting Officer shall make an equitable adjustment for the additional services involved in the examination and reconstruction, including, if completion of the work was thereby delayed, an extension of time.
- (i) Unless otherwise specified in the contract, the Government shall accept, as promptly as practicable after completion and inspection, all work required by the contract or that portion of the work the Contracting Officer determines can be accepted separately. Acceptance shall be final and conclusive except for latent defects, fraud, gross mistakes amounting to fraud, or the Government's rights under any warranty or guarantee.

E.4 INSPECTION AND ACCEPTANCE OF INSTALLED SVPS/ECMs

Each delivery order will include specific inspection and acceptance criteria pertinent to the delivery order project. The following general inspection and acceptance requirements shall apply to each delivery order, unless otherwise indicated in the order:

- (a) The Government and contractor shall jointly inspect SVPS and ECMs. Inspections will be conducted simultaneously, when possible, by both the Government and contractor representatives to facilitate mutual agreement on satisfactory delivery order performance.
- (b) The contractor shall notify the Agency Contracting Officer fifteen (15) working days in advance of SVPS and ECM installation completion (or such other notification period as may be specified in a delivery order) by submitting a written request for inspection. The request shall identify the location, describe the SVPS/ECMs installed, schedule testing of SVPS/ECMs for verifying energy savings performance, and recommend dates for inspection (if any).

- (c) The Government shall provide written notification to the contractor of scheduled date and time for Government inspection within ten (10) working days after receipt of inspection notification and request (or such other period as may be specified in delivery order).
- (d) Each delivery order may include additional agency-specific or site-specific inspection and acceptance requirements. The contractor shall review each delivery order to determine the recommended applicable inspection and acceptance requirements for that delivery order.

E.5 52.246-4 INSPECTION OF SERVICES - FIXED-PRICE (AUG 1996)

- (a) Definitions.

"Services," as used in this clause, includes services performed, workmanship, and material furnished or utilized in the performance of services.
- (b) The Contractor shall provide and maintain an inspection system acceptable to the Government covering the services under this contract. Complete records of all inspection work performed by the Contractor shall be maintained and made available to the Government during contract performance and for as long afterwards as the contract requires.
- (c) The Government has the right to inspect and test all services called for by the contract, to the extent practicable at all times and places during the term of the contract. The Government shall perform inspections and tests in a manner that will not unduly delay the work.
- (d) If the Government performs inspections or tests on the premises of the Contractor or a subcontractor, the Contractor shall furnish, and shall require subcontractors to furnish, at no increase in contract price, all reasonable facilities and assistance for the safe and convenient performance of these duties.
- (e) If any of the services do not conform with contract requirements, the Government may require the Contractor to perform the services again in conformity with contract requirements, at no increase in contract amount. When the defects in services cannot be corrected by reperformance, the Government may:
 - (1) require the Contractor to take necessary action to ensure that future performance conforms to contract requirements; and
 - (2) reduce the contract price to reflect the reduced value of the services performed.
- (f) If the Contractor fails to promptly perform the services again or to take the necessary action to ensure future performance in conformity with contract requirements, the Government may:
 - (1) by contract or otherwise, perform the services and charge to the Contractor any cost incurred by the Government that is directly related to the performance of such service; or
 - (2) terminate the contract for default.

E.6 52.246-20 WARRANTY OF SERVICE (APR 1984)

(a) Definitions:

"Acceptance," as used in this clause, means the act of an authorized representative of the Government by which the Government assumes for itself, or as an agent of another, or approves specific services, as partial or complete performance of the contract. "Correction," as used in this clause, means the elimination of a defect.

(b) Notwithstanding inspection and acceptance by the Government or any provision concerning the conclusiveness thereof, the Contractor warrants that all services performed under this contract will, at the time of acceptance, be free from defects in workmanship and conform to the requirements of this contract. The Contracting Officer shall give written notice of any defect or nonconformance to the Contractor within 30 days from the date the defect or non-conformance is detected by the Government. This notice shall state either (1) the Contractor shall correct or reperform any defective or nonconforming services, or (2) that the Government does not require correction or reperformance.

(c) If the Contractor is required to correct or reperform, it shall be at no cost to the Government, and any services corrected or reperformed by the Contractor shall be subject to this clause to the same extent as work initially performed. If the Contractor fails or refuses to correct or reperform, the Contracting Officer may, by contract or otherwise, correct or replace with similar services and charge to the Contractor the cost occasioned to the Government thereby, or make an equitable adjustment in the contract price.

(d) If the Government does not require correction or reperformance, the Contracting Officer shall make an equitable adjustment in the contract price.

SECTION F - DELIVERIES OR PERFORMANCE**F.1 PERIOD OF PERFORMANCE OF INDEFINITE DELIVERY/INDEFINITE QUANTITY (IDIQ) CONTRACT AND DELIVERY ORDERS**

The contractor shall be required to commence work under this contract only upon issuance of delivery orders against it. The contractor shall be required to commence work on specific delivery orders within the number of days specified in the delivery order, once the contractor has received a notice to proceed. The contractor shall then prosecute the work diligently and complete the installation of all energy conservation measures (SVPS/ECMs) in accordance with the schedule established in the delivery order.

F.1.1 Contract Term:

The IDIQ contract term shall consist of a maximum basic performance period of twenty-five (25) years from date of contract award, with an ordering period for placement of delivery orders beginning on the date of contract award through October 1, 2003. (See Section B.4 for additional information on the ordering period.)

F.1.2 Delivery Order Term:

The delivery order term shall be specified in each delivery order. The delivery order term is comprised of the installation time for all SVPS/ECMs after award as indicated on Schedule DO-Ib (in months), and the energy savings performance period as indicated on Schedule DO-Ib (in years). (See Part III, Section J, Attachment 3 for these DO Schedules.) In no event shall a delivery order's term exceed twenty-five (25) years after the award of the IDIQ contract.

F.2 PRINCIPAL PLACE OF PERFORMANCE

The principal place of performance will be specified in each delivery order.

F.3 DELIVERABLES

There are no specific contractor deliverables for this contract. The contractor shall, however, be required to submit the deliverables specified in the Reporting Requirements included in each specific delivery order, in accordance with the instructions contained in them. The Anticipated Delivery Order Reporting Requirements in Part III, Section J, Attachment 4 provide an indication of what those deliverables are expected to be.

SECTION G - CONTRACT ADMINISTRATION DATA

G.1 CONTRACT ADMINISTRATION FOR THE GOVERNMENT

- (a) ADMINISTRATION OF THE CONTRACT: Administration of this contract shall be accomplished by the Golden Field Office of the Department of Energy, at the address on the award sheet. The following individuals at the Golden Field Office are responsible for that administration:
1. Contracting Officer/Contract Specialist: The Contracting Officer and Contract Specialist for this contract is Beth H. Peterman, telephone no.: (303) 275-4719; fax no.: (303) 275-4788. The contractor shall use the DOE Contracting Officer as the focal point for all matters regarding this contract except technical matters.
 2. Contracting Officer's Representative (COR): The COR for this contract is Jeffrey L. Hahn, telephone no.: (303) 275-4775; fax no.: (303) 275-4753. The contractor shall use the COR as the focal point for all technical matters **ONLY**.

All correspondence, other than technical correspondence, shall be addressed to the Contracting Officer, with information copies to other Government personnel as appropriate. All technical correspondence, excluding correspondence where patent or technical data issues are involved or which proposes or otherwise involves waivers, deviations, or modifications to the requirements, terms, or conditions of the contract, may be addressed to the COR, with informational copies to the Contracting Officer.

- (b) ADMINISTRATION OF DELIVERY ORDERS: Administration of delivery orders issued against this contract shall be accomplished by the Agency Contracting Officer and Agency COR, and any other individuals as appropriate, identified in each delivery order by the ordering agency contracting office.

G.2 INVOICING INSTRUCTIONS

The Contractor shall submit invoices in accordance with the specific instructions provided in each delivery order issued against this contract. These instructions will vary by ordering agency, and will include invoice format, invoice contents and any attachments or enclosures, submission and addressing instructions, etc. Included with each invoice will be SVPS/ECM performance data as required by the site-specific M&V Plan.

G.3 START OF INVOICE SUBMITTALS FOR DELIVERY ORDER PROJECTS

- (a) The contractor may submit invoices for SVPS/ECM payments when all SVPS/ECMs have been installed, and accepted, unless otherwise specified in the delivery order. The Agency COR for the specific delivery order shall make the determination of whether the SVPS/ECMs have performed in a satisfactory manner for the 30 day period.
- (b) The contractor will receive monthly payments based on the annual fixed payment schedule, as established in each delivery order [column (b) of Schedule DO-Ib]. Any credits becoming due to the Government may be applied against contractor's subsequent invoices, with appropriate information attached.

G.4 PAYMENT TO THE GOVERNMENT FOR GUARANTEED SAVINGS SHORTFALL

Contractor failure to achieve annual cost savings that exceed values specified in Schedule DO-Ib, column (b) for a specific delivery order, will result in overpayment of negotiated contractor annual payments. Guaranteed savings performance shortfall will be established from the M&V documentation acquired from monthly invoices and the annual SVPS/ECM performance verification report. Reimbursement of the Government overpayment of annual contractor payments due to annual cost savings shortfall shall be made by deductions from the contractor's future monthly invoice(s). The Government may also adjust the next year's monthly contractor payments downward to meet the projected annual cost savings level established by the annual SVPS/ECM performance verification M&V documentation. If monthly contractor payments are adjusted, they will be restored when the contractor can provide evidence that the cause of energy cost savings shortfall has been corrected and SVPS/ECM performance for the following year will exceed annual contractor payments in Schedule DO-Ib, column (b). This remedy is in addition to any other remedy the Government may have under the contract or under the law, including its right to terminate for default.

SECTION H - SPECIAL CONTRACT REQUIREMENTS**H.1 CANCELLATION OF ITEMS**

- (a) Cancellation, as used in this clause, means that the Government is canceling its requirements for all items in program years subsequent to that in which notice of cancellation is provided. Cancellation shall occur, by the date or within the time period specified in the Schedule, (unless a later date is agreed to) if the Contracting Officer (1) notifies the Contractor that funds are not available for contract performance for any subsequent program year or (2) fails to notify the Contractor that funds are available for performance of the succeeding program year requirement.
- (b) Except for cancellation under this clause or termination under the Default clause, any reduction by the Contracting Officer in the requirements of this contract shall be considered a termination under the Termination for Convenience of the Government clause.
- (c) If cancellation under this clause occurs, the Contractor will be paid a cancellation charge not greater than the cancellation ceiling specified in Schedule DO-Ib, and as applicable at the time of cancellation.
- (d) The cancellation charge will cover only (1) costs (i) incurred by the prime contractor and/or subcontractor(s); (ii) reasonably necessary for performance of the contract; and (iii) that would have been equitably amortized in the unit prices for the entire multiyear contract period but, because of the cancellation, are not so amortized; and (2) a reasonable profit on the costs.
- (e) The cancellation charge shall be computed and the claim made for it as if the claim were being made under the Termination for Convenience of the Government clause of this contract. The Contractor shall submit the claim promptly but no later than 1 year from the date (1) of notification of the nonavailability of funds, or (2) specified in the Schedule by which notification of the availability of additional funds for the next succeeding program year is required to be issued, whichever is earlier, unless extensions in writing are granted by the Agency Contracting Officer.
- (f) The Contractor's claim may include -
 - (1) Reasonable nonrecurring costs (see FAR 15.8) which are applicable to and normally would have been amortized in all items to be furnished under the multiyear requirements;
 - (2) Allocable portions of the costs of facilities acquired or established for the conduct of the work, to the extent that it is impracticable for the Contractor to use the facilities in its commercial work and if the costs are not charged to the contract through overhead or otherwise depreciated;
 - (3) Costs incurred for the assembly, training, and transportation to and from the job site of a specialized work force; and
 - (4) Costs not amortized by the unit price solely because the cancellation had precluded anticipated benefits of Contractor or subcontractor learning.

- (g) The claim shall not include -
- (1) Labor, material, or other expenses incurred by the Contractor or subcontractors for performance of the canceled work;
 - (2) Any cost already paid to the Contractor;
 - (3) Anticipated profit on the canceled work; or
 - (4) For service contracts, the remaining useful commercial life of facilities. Useful commercial life means the commercial utility of the facilities rather than their physical life with due consideration given to such factors as location of facilities, their specialized nature, and obsolescence.

H.2 CONFIDENTIALITY OF INFORMATION

- (a) To the extent that the work under this contract requires that the Contractor be given access to confidential or proprietary business, technical, or financial information belonging to the Government or other companies, the Contractor shall, after receipt thereof, treat such information as confidential and agree not to appropriate such information to its own use or to disclose such information to third parties unless specifically authorized by the Contracting Officer in writing. The foregoing obligations, however, shall not apply to:
- (1) Information which, at the time of receipt by the Contractor, is in the public domain;
 - (2) Information which is published after receipt thereof by the Contractor or otherwise becomes part of the public domain through no fault of the Contractor;
 - (3) Information which the Contractor can demonstrate was in his possession at the time of receipt thereof and was not acquired directly or indirectly from the Government or other companies;
 - (4) Information which the Contractor can demonstrate was received by it from a third party who did not require the Contractor to hold it in confidence.
- (b) The Contractor shall obtain the written agreement, in a form satisfactory to the Contracting Officer, of each employee permitted access, whereby the employee agrees that he will not discuss, divulge or disclose any such information or data to any person or entity except those persons within the Contractor's organization directly concerned with the performance of the contract.
- (c) The Contractor agrees, if requested by the Government, to sign an agreement identical, in all material aspects, to the provisions of this clause, with each company supplying information to the Contractor under this contract, and to supply a copy of such agreement to the Contracting Officer. From time to time upon request of the Contracting Officer, the Contractor shall supply the Government with reports itemizing information received as confidential or proprietary and setting forth the company or companies from which the Contractor received such information.
- (d) The Contractor agrees that upon request by DOE it will execute a DOE-approved agreement with any party whose facilities or proprietary data it is given access to or is furnished, restricting use and disclosure of the data or the information obtained from the facilities. Upon request by DOE, such an

agreement shall also be signed by Contractor personnel.

- (e) This clause shall flow down to all subcontracts.

H.3 REPRESENTATIONS, CERTIFICATIONS AND OTHER STATEMENTS OF THE OFFEROR

The Representations, Certifications and Other Statements of the Offeror for this contract, dated [date to be inserted at award], are hereby incorporated by reference. They are located in the official contract file for the award.

Additional representations and certifications may be required by the Agency Contracting Officer for specific delivery orders. These include but are not limited to those listed at the end Section I of this contract, "Contract Clauses."

H.4 TECHNICAL DIRECTION

- (a) Performance of the work under this contract shall be subject to the technical direction of the DOE Contracting Officer's Representative (COR) identified elsewhere in this contract, or to that of the Agency COR for each delivery order issued against the contract. The term "technical direction" is defined to include:
 - (1) Directions to the Contractor which redirect the contract effort, shift work emphasis between work areas or tasks, required pursuit of certain lines of inquiry, fill in details or otherwise serve to accomplish the contractual Statement of Work.
 - (2) Provision of written information to the Contractor which assists in the interpretation of drawings, specifications or technical portions of the work description.
 - (3) Review and, where required by the contract, approval of technical reports, drawings, specifications and technical information to be delivered by the Contractor to the Government under the contract.
- (b) Technical direction must be within the scope of work stated in the contract. The COR does not have the authority to, and may not, issue any technical direction which:
 - (1) Constitutes an assignment of additional work outside the Statement of Work;
 - (2) Constitutes a change as defined in the contract clause entitled "Changes";
 - (3) Causes an increase or decrease in the total price or the time required for contract performance;
 - (4) Changes any of the expressed terms, conditions or specifications of the contract; or
 - (5) Interferes with the Contractor's right to perform the terms and conditions of the contract.
- (c) All technical directions shall be issued in writing by the COR.
- (d) The Contractor shall proceed promptly with the performance of technical directions duly issued by the COR in the manner prescribed by this article and within his authority under the provisions of this clause. If, in the opinion of the Contractor, any instruction or direction by the COR falls within one of

the categories defined in (b)(1) through (5) above, the Contractor shall not proceed but shall notify the Contracting Officer in writing within five (5) working days after receipt of any such instruction or direction and shall request the Contracting Officer to modify the contract accordingly. Upon receiving the notification from the Contractor, the Contracting Officer shall:

- (1) Advise the Contractor in writing within thirty (30) days after receipt of the Contractor's letter that the technical direction is within the scope of the contract effort and does not constitute a change under the "Changes" clause of the contract;
- (2) Advise the Contractor within a reasonable time that the Government will issue a written change order.
- (e) A failure of the Contractor and Contracting Officer to agree that the technical direction is within the scope of the contract, or a failure to agree upon the contract action to be taken with respect thereto shall be subject to the provisions of the clause entitled "Disputes Alternate I" of the contract.

H.5 SUBCONTRACTS

- (a) Prior to the placement of subcontracts and in accordance with the clause, "Subcontracts-Fixed-Price Contracts," the Contractor shall ensure that:
 - (1) they contain all of the clauses of this contract (altered when necessary for proper identification of the contracting parties) which contain a requirement for such inclusion in applicable subcontracts;
 - (2) any applicable subcontractor Representations and Certifications (see Part IV, Section K of this solicitation; and
 - (3) any required prior notice and description of the subcontract is given to the Agency Contracting Officer and any required consent is received. Except as may be expressly set forth therein, any consent by the Agency Contracting Officer to the placement of subcontracts shall not be construed to constitute approval of the subcontractor or any subcontract terms or conditions, determination of the allowability of any cost revision of this contract or any of the respective obligations of the parties thereunder, or creation of any subcontractor privity of contract with the Government.
- (b) The Contractor shall also obtain and furnish to the Agency Contracting Officer either an OCI Disclosure Statement or Representation form in accordance with DEAR 952.209-72 "Organizational Conflicts of Interest Disclosure or Representation" for all subcontractors to be utilized under this contract. No work shall be performed by the subcontractor until the Contracting Officer has cleared the subcontractor for Organizational Conflicts of Interest (OCI).
- (c) The following subcontractors have been cleared by the Contracting Officer for Organizational Conflicts of Interest (OCI): **[names to be inserted at time of DELIVERY ORDER awards, as applicable]**

H.6 RIGHTS TO PROPOSAL DATA

Pursuant to the Section I clause entitled "RIGHTS TO PROPOSAL DATA" the following portions of the contractor's proposal is listed as proprietary data (The offeror shall insert as indicated below):

Contractor's proposal dated: [date to be inserted at award, if applicable]

Page numbers of proprietary data within the Contractor's proposal: [to be inserted at award if applicable]

H.7 GOVERNMENT PROPERTY REGULATIONS

The contractor and its employees shall be knowledgeable of and observe all Government property regulations, posted or otherwise, at the site where performance occurs for specific delivery order projects. A copy of the applicable agency regulations for the specific project site will be provided by the Agency COR for the project, upon contractor request.

H.8 RESPONSIBILITY FOR LOSS OR DAMAGE TO CONTRACTOR PROPERTY

The Government shall be responsible for loss or damage to the property of the Contractor and its employees only to the extent authorized by the Federal Tort Claims Act.

H.9 CONTRACTOR EMPLOYEES

- (a) Upon receipt of notice of award of the IDIQ contract and upon receipt of notice of award for each delivery order, the contractor shall provide the Agency Contracting Officer for the delivery order, or the Agency Contracting Officer's designated representative, with the name(s) of the responsible supervisory person(s) authorized to act for the contractor.
- (b) The contractor shall furnish sufficient personnel to perform all work specified within the delivery order.
- (c) Contractor employees shall conduct themselves in a proper, efficient, courteous, and businesslike manner.
- (d) The contractor shall remove from the site any individual whose continued employment is deemed by the Agency Contracting Officer or the Agency Contracting Officer's designated representative to be contrary to the public interest or inconsistent with the best interests of Government business or national security.

H.10 SECURITY REQUIREMENTS

- (a) **Passes and Badges:** All contractor employees shall obtain employee and vehicle passes and badges as required by the agency for the specific delivery order project site. The contractor will, prior to the start of on-site work, submit to the Agency Contracting Officer for the delivery order, or the Agency Contracting Officer's designated representative, an estimate of the number of employees expected to be utilized at any one time on the delivery order. The Government will issue badges without charge. When an employee leaves the contractor's service, the employee's pass and badge shall be returned within Ten (10) days.

- (b) **Contractor Vehicles:** Each contractor vehicle shall display the contractor's name such that it is clearly visible. Contractor vehicles shall, at all times, display a valid state license plate and safety inspection sticker.
- (c) **Contractor Access to Buildings:**
 - (1) It shall be the contractor's responsibility, through the Agency Contracting Officer or the Agency Contracting Officer's designated representative, to obtain access to buildings on the delivery order project site, as necessary, and arrange for the buildings to be opened and closed for the following:
 - i. For minor work of two hours or less duration, the contractor shall contact the building manager and security organization.
 - ii. For major work, defined as work in excess of two hours duration, and/or work that will create dust or noise, the contractor shall contact the Agency Contracting Officer or the contracting officer's designated representative at least one week in advance of the start of the work. The contractor must provide a description of the work, the number of workers required, and duration of the work.
 - (2) Keys may be issued to the contractor; however, it shall be the contractor's responsibility to make adequate arrangements for security of the building at the end of each work day. The contractor shall be responsible for the cost of replacing any keys that are furnished to and lost by its employees. If the Agency Contracting Officer or the Agency Contracting Officer's designated representative decides that a lock must be replaced because of the loss of a key by the contractor's employee(s), the contractor shall pay the cost of that replacement. Similarly, the contractor shall pay the cost of changing a combination if the contracting officer or the Agency Contracting Officer's designated representative has reasonable cause to assume that the combination has been compromised.
 - (3) Access to tenant command spaces must be scheduled with the Agency Contracting Officer or the contracting officer's designated representative at least ten (10) days in advance. Notice must include names of employees to be admitted, expected arrival time, and visit duration. Buildings that require an escort will be identified in the solicitation for a specific project. All access will be during normal working hours, Monday through Friday, as specified in the delivery order.
- (d) **Contractor Access to secure areas:** Certain areas of a project site may require that the contractor and its employees have an escort, and/or place limits on the days and times that the contractor and its employees may work in these areas. Specific delivery orders will identify any such secure areas and the requirements for contractor access to them.

H.11 WORK SCHEDULE REQUIREMENTS

The contractor shall arrange its on-site work so that it will not interfere with normal Government business. The contractor shall develop a monthly work schedule for all on-site work performed from delivery order award through installation period for all SVPS/ECMs. In no event shall the contractor change approved work schedules without the prior consent of the contracting officer or the contracting officer's designated representative.

If the contractor desires to work on Saturday, Sunday, holidays, or outside the project site's normal working hours, which normal working hours will be specified in the delivery order, it may submit a request for approval to the Agency

Contracting Officer's designated representative at least seven (7) working days prior to the proposed start of such work.

H.12 PERMITS

In accordance with the "Permits and Responsibilities" clause in Section I, the contractor shall, without additional expense to the Government, obtain all appointments, licenses, and permits required to conduct the work. The contractor shall comply with all applicable Federal, state and local laws. Evidence of such permits and licenses shall be provided to the Agency Contracting Officer or the Agency Contracting Officer's designated representative before work commences.

H.13 FIRE PREVENTION

The contractor shall ensure that its employees shall know how to activate a fire alarm. The contractor shall observe all requirements for handling and storing combustible supplies, materials, waste and trash. Contractor employees operating critical equipment shall be trained to properly respond during a fire alarm or fire in accordance with the applicable agencies fire prevention procedures, rules or regulations as identified in the delivery order. The contractor shall obtain all required welding permits prior to any welding. The contractor shall comply with NFPA requirements. A fire watch shall be utilized when hot work is being performed.

H.14 WAGE DETERMINATIONS AND DAVIS BACON WAGE RATES

For solicitation purpose, In proposing against the site data package at Attachment 5, the offeror shall comply with the requirements of any U.S. Department of Labor Wage Determination(s) which may be appropriate for the location of the site, and indicate what was used. For contract purposes, compliance with U.S. Department of Labor wage Determinations will be as required in the DO RFP for the delivery order project, as indicated by the Agency Contracting Officer.

H.15 REQUIRED INSURANCE

- (a) The contractor shall procure at its expense and maintain during the entire period of performance under this IDIQ contract and the delivery orders awarded to the contractor against it the following minimum insurance coverage. Specific delivery orders may require additional insurance coverage, which would be specified in the delivery order. If additional insurance coverage is specified in a delivery order, the Contractor shall maintain at its own expense for the delivery order term, the following additional insurance coverage:
 - 1. Comprehensive general liability: \$500,000 per occurrence.
 - 2. Automobile liability: \$200,000 per person, \$500,000 per occurrence, \$20,000 per occurrence for property damage.
 - 3. Workman's compensation: As required by Federal and state workers' compensation and occupational disease statutes.

4. Employer's liability coverage: \$100,000 except in states where workers' compensation may not be written by private carriers.
 5. Other insurance as required by State law.
- (b) Prior to commencement of work, the contractor shall furnish to the Agency Contracting Officer a certificate or written statement of the required insurance coverage. The policies evidencing required insurance coverage shall contain an endorsement to the effect that cancellation or any material change in the policies adversely affecting the interests of the Government in such insurance shall not be effective for such period as may be prescribed by the laws of the State in which the delivery order is to be performed and in no event less than thirty (30) days after written notice thereof to the Agency Contracting Officer.
 - (c) The contractor agrees to insert the substance of this clause in all subcontracts hereunder.
 - (d) Nothing herein shall relieve or limit the contractor of liability for losses and damages to person or property as a result of its operation. The contractor shall indemnify and hold harmless the Government from any and all liability associated with its operation.

H.16 ADDITIONAL DELIVERY ORDER CLAUSES FOR WORK ON DOE FACILITIES HAVING CLASSIFIED INFORMATION

- a) If the SVPS/ECM project covered by a delivery order involves work to be performed at a Department of Energy facility that has classified information (section 41 of the Atomic Energy Act of 1954, as amended), DEAR 952.204-2 Security (Apr 1984) and DEAR 952.204-70 Classification (Apr 1984) may apply to that delivery order. The specific delivery order for such site shall incorporate these clauses, if applicable.
- b) If the SVPS/ECM project covered by a delivery order involves work to be performed at a Department of Energy facility that has classified information (section 41 of the Atomic Energy Act of 1954, as amended), the contractor may be required to submit its representation concerning foreign ownership, control, or influence over contractor, DEAR 952.204-73 (see Section L); and the clause DEAR 952.204-74 Foreign Ownership, Control, or Influence over Contractor (Apr 1984) may apply to that delivery order. The solicitation for such site would request the representation, and the specific delivery order for such site would incorporate the clause, if applicable.

H.17 USE OF NON-GOVERNMENT PERSONNEL IN EVALUATIONS

The Government requires non-Government personnel from Federally-Funded Research and Development Centers (FFRDCs) (i.e., the Lawrence Berkeley Laboratory and the National Renewable Energy Laboratory), as well as from various private contractor consultants, as advisors/participants in proposal evaluation because the technical proposal evaluations require specialized training, experience and skill resources available from the FFRDCs and private contractor consultants that are not available within the Department of Energy.

H.18 LIQUIDATED DAMAGES

Since this IDIQ contract is for use by all authorized federal agencies in a specific region and the specific SVPS/ECM projects are not known at this time, the Government cannot make a determination as to whether Liquidated Damages would apply to any individual delivery order. Therefore, the Contractor shall review each delivery order solicitation and the actual delivery order for the desirability of including an appropriate Liquidated Damages clause per the Federal agency requirements that apply.

H.19 TITLE TO AND RESPONSIBILITY FOR CONTRACTOR-INSTALLED EQUIPMENT

- (a) All equipment installed by the contractor at installation is and remains the property of the contractor during the delivery order's term unless otherwise specified and mutually agreed to in a delivery order.
- (b) The contractor may modify, replace, or change the systems and equipment during the delivery order from that originally approved. However, any proposed modification, replacement, or change shall require notification and coordination with and approval of the Agency Contracting Officer. Any such modification, replacement, or change of systems or equipment shall be performed by the contractor at no cost to the Government and shall not interfere with Government operations and mission.
- (c) At the expiration of the delivery order term, all rights, title, and interest in and to all improvements and equipment constructed or installed on the premises and additions, shall vest in the Government, at no additional cost, free and clear of all and any mechanics liens and encumbrances created or caused by the contractor. The contractor shall surrender possession of said premises and the improvements and equipment to the Government in good repair and condition, reasonable wear and tear accepted.
- (d) If the IDIQ contract or a specific delivery order is terminated for convenience, all rights, title, and interest in and to all improvements, additions, or equipment of all SVPS/ECMs installed by the contractor to which the Government determines to take possession shall vest in the Government. For those SVPS/ECMs for which the Government takes possession and thereby obtains title, the contractor shall be compensated in accordance with FAR clause Termination for Convenience (52.249-2).

H.20 NOTICE OF PAYMENT AND PERFORMANCE BOND REQUIREMENTS

Copies of standard bond forms, SF-25 and SF-25A, will be required to be completed prior to delivery order awards, in accordance with the following provisions.

H.20.1 Project Financing by Contractor

- (1) The Government will notify the selected contractor of its intent to award the delivery order. Pursuant to Section H.29, Preaward Requirements, the selected contractor shall furnish acceptable evidence of a surety's commitment to provide performance and payment bonds to the Government.
- (2) Within 30 days after award of delivery order or acceptance of SVPS/ECM installation plans, whichever is later, the selected contractor shall provide a performance bond (Standard Form 25) and a payment bond (Standard Form 25A) in duplicate. The performance bond penal sum shall be in an amount equal to the estimated cost of restoring the site of the SVPS system to its original condition. Thus performance bonding for the cost of the SVPS system

is not required.

The performance and payment bonds shall remain in effect during the total installation period for all SVPS/ECMs. After acceptance the performance bond shall be reduced to a penal sum adequate to protect the government's interest in performance of post-acceptance services during the 1-year warranty period. The payment bond penal sum shall be adequate to pay all suppliers and subcontractors. The payment bond shall be released upon receipt of satisfactory evidence that all subcontractors, laborers, and material men have been paid in full. The SVPS/ECM installation period shall include all time required for installation, testing, measuring initial performance, and Government acceptance of all installed SVPS/ECMs.

- (3) Because SVPS/ECMs are installed on or affixed to Government property, mechanics liens are prohibited. Therefore, the payment bond shall secure the contractor's obligations for payment of laborers, suppliers, and subcontractors.
- (4) Each subcontract, under this IDIQ contract or under a specific delivery order shall include a provision that prohibits placing mechanics liens against any SVPS/ECMs installed on or affixed to Government property under this IDIQ contract or under a specific delivery order.

H.20.2 Project Financing by Third Party

- (1) The Government will notify the selected contractor of its intent to award the delivery order. Pursuant to Section H, Preaward Requirements, the selected contractor shall provide, to the Government, proof of project financing and acceptable evidence of a surety's commitment to provide performance and payment bonds.
- (2) Within 30 days of award of the delivery order or acceptance of installation plans, whichever is later, the selected contractor shall furnish a certified copy and duplicate of a performance bond, with project financier as co-beneficiary along with the Government. The performance bond shall be in a penal sum equal the estimated cost of restoring the site of the SVPS system to its original condition. The payment bond penal sum shall be sufficient to cover all subcontractors, laborers and suppliers in the amount of any liens they could hold in a non-Federal contract, or as required by state law.

The performance and payment bonds shall remain in effect during the total installation period for all SVPS/ECMs. After acceptance the performance bond shall be reduced to a penal sum adequate to protect the Government's interest in performance of post-acceptance services during the one 1-year warranty period. The payment bond shall be released upon receipt of satisfactory evidence that all subcontractors, laborers, and material men have been paid in full. The SVPS/ECM installation period shall include all time required for installation, testing, measuring initial performance, and Government acceptance of all installed SVPS/ECMs.

- (3) Because SVPS/ECMs are installed on or affixed to Government property, mechanics liens are prohibited. Therefore, the payment bond shall secure the contractor's obligations for payment of laborers, suppliers, and subcontractors.
- (4) Each subcontract, under this IDIQ contract or under a specific delivery order shall include a provision that prohibits placing mechanics liens against any SVPS/ECMs installed on or affixed to Government property under this IDIQ contract or under a specific delivery order.

H.21 PROTECTION OF FINANCIER'S INTEREST

- (a) The Government recognizes that project financing associated with contractor performance on the delivery orders may be accomplished using third-party financing, and as such, will permit the financing source to perfect a security interest in the installed energy conservation measures, subject to and subordinate to the rights of the Government. To provide protection of any financier's interest, the contractor may be required to assign to its lenders, some or all of its rights under a delivery order.
- (b) The Government will consider:
 - (1) Requests for assignments of monies due or to become due under a delivery order, provided the assignment complies with the Assignment of Claims Act.
 - (2) Requests for the Government to provide lenders or financiers copies of any cure or show-cause notice issued to contractor.
 - (3) Requests by lenders or lienholders for extension of response time to cure or show-cause notices.
 - (4) A proposed takeover of delivery order performance in the event the contractor defaults in performance. Requests for takeover of the delivery order on substantially the same terms and conditions will be approved, if the proposed substitute party is acceptable to the Government and such takeover is in the Government's best interests.
- (c) The Government review and approval of the above requests will not be unreasonably withheld.

H.22 UTILITY ENERGY EFFICIENCY/RENEWABLE PROJECT FINANCIAL INCENTIVES AND TAX CREDITS

The implementation of a SVPS/ECM system may result in the Government being eligible for a financial incentive from the serving utility company. Unless otherwise specified in the delivery order, the contractor shall be responsible for preparing any and all documentation required to apply for any applicable financial incentive. The contractor shall submit the utility company application and documentation to the Agency Contracting Officer for Government submission to the serving utility representative. When submitting any utility program application, the contractor shall also submit a proposal as specified in the delivery order to address disposition of revenues acquired from the serving utility, which shall be negotiated with the Government.

Likewise, tax credits may be available based on the proposed delivery order project. The contractor shall disclose to the Government any Federal or state tax credits applicable to the project, to include what portions of the credits are to be passed on to the Government in the form of reduced project costs. Subcontractors shall also be required to investigate and ensure that full advantage is taken of any available tax credits.

THE FOLLOWING PROVISIONS H.23 THROUGH H.29 PRESCRIBE THE PROCEDURES FOR SOLICITATION AND AWARD OF DELIVERY ORDERS AGAINST THIS IDIQ CONTRACT, ONCE AN AWARD IS MADE. THEY DO NOT REPRESENT EVALUATION CRITERIA OR PROPOSAL REQUIREMENTS FOR THIS SOLICITATION, AND ARE PROVIDED FOR THE INFORMATION OF THE POTENTIAL OFFERORS, AS THEY WILL BE INCLUDED IN THE IDIQ AWARD(S).

H.23 FEDERAL ENERGY MANAGEMENT PROGRAM (FEMP) DELIVERY ORDER REQUEST FOR PROPOSAL (DO RFP) FORMAT

The DOE Contracting Officer for this contract will create a prescriptive delivery order request for proposal (DO RFP) format for use by ordering agencies in requesting offers from the contractor(s) for specific delivery order projects, and will make it available upon request to any authorized Contracting Officer from any federal agency. This format will provide, in contract chronological order, only those provisions and clauses throughout the contract which need to be addressed in developing the description of a specific project, and the differing or additional agency and site specific requirements relative to it. In addition, the DO RFP will include a Standard Data Package (SDP) format Attachment which provides the framework for the technical description of the specific project site.

Ordering agencies will be encouraged to use these formats, or comparable ones that they develop providing the same relevant information, in requesting offers for specific projects and for placing delivery orders against this contract. The purposes for requiring use of standard DO RFP and SDP formats are to (1) facilitate rapid processing of delivery order project procurements and awards; (2) minimize the contract administration required for this contract and its delivery orders; and (3) promote consistency among the agencies ordering against the IDIQ contracts, for the benefit of the IDIQ contractors receiving awards.

H.24 PROCEDURES FOR AWARDING DELIVERY ORDERS

The Government may have awarded more than one contract for the work specified in the Statement of Work of this contract. The Contracting Officer or other authorized ordering official may issue delivery orders to the contractor and/or the other contractors during the terms of the respective contracts. Selection of the contractor or a companion contractor for issuance of a specific delivery order will be made pursuant to the provisions in either paragraph (a) or (b) below.

The DOE Contracting Officer or the Federal agency's Contracting Officer shall have the final decision authority as to the extent to which offers will be solicited for individual delivery orders, taking into account technical, economic, performance risk considerations, and the factors described below. Such decision shall not be subject to dispute.

No protest under 48 CFR (FAR) Part 33 is authorized in connection with the issuance or proposed issuance of a delivery order under this contract except for a protest on grounds that the delivery order increases the scope, period, or maximum value of the contract. The Department of Energy Task and Delivery Order Ombudsman shall be responsible for reviewing complaints from any contractor arising from the Contracting Officer decision as to the extent to which offers will be solicited for individual delivery orders, and for ensuring in general that all of the contractors receiving awards are afforded a fair opportunity to be considered. The DOE Ombudsman is Stephen D. Mournighan.

The contractor agrees that issuance of a delivery order in accordance with any of the procedures in this provision is deemed to have provided the contractor with a "fair opportunity to be considered," as that phrase is used in Section 303J(b) of the Federal Property and Administrative Services Act of 1949, as amended.

(a) **Single Source Awards**

The Agency Contracting Officer may issue a delivery order to any one of the contractors having a DOE multiple award IDIQ contract if he determines unilaterally, that:

1. The agency's need for the services ordered is of such unusual urgency that providing such opportunity to all contractors would result in unacceptable delays in fulfilling the need;
2. The delivery order requires the installation, operation and maintenance of SVPS/ECMs that are highly specialized and only one contractor is capable of providing the SVPS/ECMs at the level of quality required because the services ordered are unique or highly specialized;
3. It is necessary to place an order with a particular contractor in order to satisfy a minimum guarantee;
4. The delivery order should be placed on a sole source basis in the interest of efficiency and economy because it is a logical follow-on to a delivery order previously issued to a contractor on a competitive basis; and
5. It is a Contractor-identified project for which rationale can be identified and documented that consideration of other IDIQ contractor offers for the project site is not in the best interests of the Government.

b. **Awards Based on Fair Consideration of IDIQ Contractors**

1. The Agency Contracting Officer may make selections of IDIQ contractors and issue delivery orders based on competition among two or more of the awardees for these ESPC efforts. When competition is conducted, the evaluation criteria specified in the provision at Section H.26, "Proposal Evaluation for Delivery Order SVPS/ECM Projects," and the "Requirements for Full Proposal Contents for Government-Identified and Contractor-Identified Delivery Order Projects," in the provision at Section H.25 shall be used in evaluating and selecting the IDIQ contractor for the delivery order project, unless other proposal requirements and evaluation criteria are specified in the DO RFP for the project.
2. The Agency Contracting Officer may issue delivery orders based on evaluation of performance against previous delivery orders against this contract. This may also be used as a means of selecting a limited number of contractors (i.e., less than the total number of contractors that received an award for the Statement of Work for this contract) that may submit proposals to be further evaluated in accordance with the provisions at Sections H.25 and H.26, or as specified in the DO RFP for the delivery order project.

The Government anticipates awarding fixed price delivery orders against this contract. SVPS/ECM projects may be identified by either federal agencies or by the contractor(s), and therefore the provisions below provide proposal preparation instructions (Section H.25) and evaluation procedures (Section H.26) for both scenarios. In addition, there are initial proposal requirements for Contractor-Identified SVPS/ECM projects ONLY, which are applicable prior to full proposal preparation and evaluation (Sections H.27 and H.28). All of these instructions and procedures represent the MAXIMUM anticipated to be expected for competitively pursuing a specific delivery order project. Ordering agencies may identify different instructions and procedures in the DO RFPs for their specific delivery order projects; however, the instructions and procedures provided below will apply unless other instructions which supersede or revise them are identified in the DO RFPs.

A Government-identified SVPS/ECM Project is one identified by a federal agency for a SVPS/ECM project. **A Contractor-Identified SVPS/ECM Project** is one identified by one of the multiple awardee IDIQ contractors for a SVPS/ECM project. As projects are identified by federal agencies, or as Contractor-Identified projects are pursued, the Agency Contracting Officer for the requirement will request a contractor or contractors to submit a delivery order proposal. The contractor(s) shall submit the requested price and technical proposals in sufficient detail as will permit prompt evaluation, selection (if applicable), and negotiation and/or acceptance of a proposal thereof in accordance with Sections H.25 and H.26 of this contract, or as modified by Sections H.25 and H.26 of the DO RFP.

H.25 REQUIREMENTS FOR FULL PROPOSAL CONTENTS FOR BOTH GOVERNMENT- AND CONTRACTOR-IDENTIFIED DELIVERY ORDER SVPS/ECM PROJECTS

Proposals shall be submitted initially on the most favorable terms from a price and technical standpoint to the Government. The Government reserves the right to accept or reject the initial proposal without further discussions. As required by the DO RFP for a delivery order project, the contractor shall submit a technical and price proposal, as follows:

(NOTE: All proposals submitted in response to a DO RFP shall be limited to a total of fifty (50) overall pages, to include technical and price, not including required delivery order (DO) Schedules, or addenda necessarily attached to the proposal. Proposal text shall be typed in sufficient size to be readable, and printed, unreduced in size, on 8-1/2" by 11" paper. The focus is to be on content, NOT appearance, and therefore glossy presentations, binders, foldouts, etc. are NOT desired, and it is encouraged that they DO NOT be included in the site proposals.)

The technical and price portions of a proposal should be submitted together in one volume.

H.25.1 Format for Technical Portion of the Proposal: The technical proposal shall be prepared in the following format, unless specified otherwise in the solicitation for the delivery order project:

1. SVPS and ECM Descriptions and Projected Energy Savings (including SVPS/ECM Summary Schedule for Delivery Order)
 - i. The Contractor shall complete and submit Delivery Order Schedule DO-IV summarizing all SVPS/ECMs proposed for the delivery order.

(Instructions at H.25.2 under price portion of the proposal explain how to complete the schedule, and supporting information to provide with the Schedule.)
 - ii. For each SVPS/ECM proposed, the Contractor shall submit narrative information for items, as applicable, in the format specified below:
 - (1) SVPS/ECM No. _____
 - (2) SVPS/ECM Title and Executive Summary
 - (a) Detailed Description of SVPS/ECM
 - (b) Location Affected
 - (c) SVPS/ECM Interface with Government Equipment
 - (d) Proposed Equipment Identification - Provide manufacturer, model number and optional equipment proposed for each SVPS/ECM component, including manufacturer's literature

- and specifications.
- (e) Expected Measure Lifetime
- (f) Physical Changes - List major physical changes to equipment or facilities required to install proposed SVPS/ECM such as relocation or removal of equipment.
- (g) Energy Savings Proposed
 - i. Proposed SVPS/ECM annual energy savings (in all applicable energy/demand reduction units)
 - ii. For each SVPS/ECM proposed, provide a detailed energy analysis documenting the proposed annual energy savings performance of SVPS/ECM after installation, startup and testing. Documentation of the analysis shall include, at a minimum:
 - Offeror's assumptions on current facility or energy system operating conditions
 - Offeror's assumptions on proposed facility or energy system operating conditions
 - Energy savings calculations using formulas and procedures based on accepted engineering principles, including synergistic effects of other SVPS/ECMs.
 - Cite references used for data, assumptions or empirical formulas.
- (h) Utility Interruptions - Specify extent of any utility interruptions needed for installation of proposed SVPS/ECMs.
- (i) Agency Support Required - Specify any government agency support required during implementation of the SVPS/ECM.
- (j) Potential Environmental Impact - Briefly describe any potential environmental impact resulting from installed SVPS/ECM.
- (k) SVPS/ECM Project Schedule - Provide a project schedule to include the duration of the following key phases:
 - i. Investment Grade Facility Audits to confirm SVPS/ECM performance (*assume Government facility audit review of 30 days unless otherwise specified in the delivery order*).

- ii. Engineering/Design/Acceptance (*assume Government design review of 30 days unless otherwise specified in the delivery order*).
- iii. Equipment Procurement/Lead Time (i.e., date required to acquire equipment and delivery on-site).
- iv. Installation & Commissioning

2. Energy Baseline and SVPS/ECM Performance Measurement

The Contractor shall describe how it will provide a complete measurement and verification (M&V) plan for the proposed delivery order. The plan shall include, but not be limited to:

- i. M&V Overview - Description of the measurement plan selected for this project referenced to the FEMP M&V Guide.
- ii. Specific M&V Plan - Define a site specific plan, which must include the following elements for each proposed SVPS/ECM:
 - (1) Objectives - a statement of what is to be estimated (i.e., gross annual Kwh savings on a project basis).
 - (2) Parameters to be monitored - indicate parameters to be recorded that will be used in the estimation of annual energy savings, including variable load, hours of operation, installation status of measures, etc.; other parameters related to secondary objectives, such as in the case of lighting, may include reduction in lighting levels.
 - (3) Sampling plan (if required), including:
 - (a) Designation of usage groups - define usage groups for areas with similar characteristics.
 - (b) Calculation of population(s) and sample sizes(s) by usage group - present the calculation and assumptions used to determine sample size by each usage group area.
 - (4) Data collection plan, including:
 - (a) Specify data to be collected in terms of parameters, unit of measurement, points of measurements, length of time and intervals of measurements; raw, meter data (if available) as well as analyzed and summary data must be obtained.
 - (b) Identification of instrumentation and metering equipment name and documentation on equipment specifications of monitoring devices.

- (c) Calibration of equipment - describe protocols for calibrating equipment.
 - (d) Data gathering and quality control - describe quality control procedures for checking completeness and accuracy of the recorded data.
 - (e) Period of monitoring - specify periods of monitoring including duration and frequency.
- (5) Analysis Method - describe in detail the method of analysis to estimate annual energy savings based on recorded data; include a discussion on relevant equations and assumptions, and document all calculations and assumptions.
- iii. Pre-Installation energy and facility performance baseline including:
 - (1) equipment/systems,
 - (2) baseline energy use,
 - (3) factors which influence baseline energy use, and
 - (4) system performance factors (e.g., lighting levels, temperature set points).
- iv. Post-installation facility conditions including
 - (1) equipment/systems,
 - (2) post-installation, non-renewable energy use,
 - (3) factors that influence post-installation energy use, and/or
 - (4) energy provided by the SVPS system.
- v. Determination of energy savings based on the selected approach and the pre and post-installation conditions.
- vi. Plan for future periodic (annual) measurements of SVPS/ECM and facility performance and calculation of current period (year) savings.
- vii. Plan for resolving disputes regarding issues such as baseline, baseline adjustment, energy savings calculation and the use of periodic measurements.

3. Management Approach

- **Organization.** Show the organization for implementing and managing the site specific project. Proposed organization shall contain the responsibilities of each element shown on the organization chart. Identify primary personnel by name in each element. Show the lines of authority within the organization. If portions of

Schedule DO-Ib --- Guaranteed Annual Cost Savings, Annual Contractor Payments, and Annual Cancellation Ceilings:

Schedule DO-Ib shall be submitted to present the selected offeror's guaranteed annual energy savings, annual contractor payments and annual cancellation ceilings. Based on the detailed energy survey results, the selected contractor only shall submit a completed DO-Ib, reflecting the contractor's guaranteed annual cost savings in column (a). The selected contractor shall submit a copy of the detailed energy survey findings, data and calculations used to support Schedule DO-Ib with the DO-Ib submission.

The contractor shall receive monthly payments based on the negotiated annual fixed payment schedule, as established in the Schedule DO-Ib, column (b), and included in the delivery order award. This represents the delivery order price and, as with DO-Ia, will have been supported by the information submitted in the other DO schedules submitted with the delivery order proposal, originally or as revised as part of the detailed energy survey.

Column (c) of Schedule DO-Ib shall present annual cancellation ceilings to establish the maximum termination liability in the event of contract cancellation or termination for convenience. Actual termination charges will be negotiated.

Schedule DO-II --- Estimated Investment for each Delivery Order Project SVPS/ECM:

Schedule DO-II shall be submitted for all delivery order project proposals with estimated pricing, and the schedule may be revised and resubmitted by the selected contractor upon completion of their detailed energy survey. Schedule DO-II presents the offeror's estimated implementation period investment for each SVPS/ECM contained in a specific project or delivery order. It reflects the equipment proposed for installation for each SVPS/ECM indicated along with its implementation price, the contract mark-up (up to the maximum proposed in Schedule IDIQ-I) applied to this pricing, the subtotals of investment for each discrete SVPS/ECM, and then the calculations of the total estimated implementation price, or investment for all proposed SVPS/ECMs for the delivery order project. Also provided is a column (a) that provides the average annual O&M and Repair cost for each SVPS/ECM. This information is requested as a trace to the information provided in Schedule DO-III.

The total SVPS/ECM investment will be used to establish performance and payment bond requirements for the SVPS/ECM implementation period.

Schedule DO-III --- Proposed Performance Period Cash Flow for Each Delivery Order Project SVPS/ECM:

Schedule DO-III shall be submitted for all delivery order project proposals with estimated pricing, and the schedule may be revised and resubmitted by the selected offeror upon completion of their detailed energy survey. Schedule DO-III presents the contractor's proposed project cash flow for a specific SVPS/ECM delivery order project. The schedule is divided into two sections. The Implementation Period section pertains to the total investment (which would trace back to Schedule DO-II) plus the debt service stream on that investment. The Performance Period section pertains to the total expenses associated with the services the contractor supplies to manage the project, and maintain and verify SVPS/ECM performance during the performance period of the delivery order term. The offeror shall propose the estimated delivery order cash flows for each year of the proposed delivery order term. The pricing provided in this schedule shall be traceable to the information provided in Schedules DO-Ia, DO-Ib and DO-II.

As required at the base of the Schedule, the offeror shall specify the total finance charge being applied in the Schedule pricing to amortize the investment (up to the maximum, based on Schedule IDIQ-II), the Treasury note index used, its issue date and the dated source used for the Treasury note index indicated.

CONTRACTORS/OFFERORS SHALL PROVIDE ADEQUATE SUPPORTING DOCUMENTATION FOR THE IMPLEMENTATION AND PERFORMANCE PERIOD PRICING SUBMITTED IN SCHEDULES DO-II AND DO-III, TO INCLUDE PRICE LISTS, CATALOG PRICING, THE BASES OF ESTIMATES USED FOR MANHOURS, ETC. If inflation is included in the calculations, an explanation of the method used and rationale therefor must be provided.

Schedule DO-IV -- SVPS/ECM Descriptions and Projected Energy Savings/Energy Supplied Table:

Schedule DO-IV shall be submitted for all delivery order project proposals. Schedule DO-IV presents a summary of the proposed estimated annual savings that will be achieved following the installation of the SVPS/ECM's included in the delivery order proposal. Both the SVPS/ECM number and technology category, per Section C.2.1 numbering shall be provided, as well as an adequate description of the SVPS and each ECM and the other indicated energy information. The SVPS/ECM numbers indicated in this schedule shall be consistent throughout the offeror's proposal, both technical and price. The annual savings requested for each SVPS/ECM shall be broken down into energy and O&M savings. The energy savings shall be presented in the energy type consumed by the equipment and also converted to Btu's for a project summary. Subsequent demand and dollar savings shall be derived from the utility rates presented in the DO RFP for the project site.

CONTRACTORS/OFFERORS SHALL PROVIDE ADEQUATE SUPPORTING DOCUMENTATION FOR THE ESTIMATED SAVINGS SUBMITTED IN SCHEDULE DO-IV.

H.26 REQUIREMENTS FOR FULL PROPOSAL EVALUATION FOR BOTH GOVERNMENT AND CONTRACTOR IDENTIFIED DELIVERY ORDER SVPS/ECM PROJECTS

Proposals will be evaluated using the criteria specified herein unless otherwise specified in the DO RFP for a delivery order project. Proposals will be evaluated using factors in two (2) categories: Technical and Price. Technical Evaluation Factors are more important than Price Evaluation Factors. The Government is more concerned about obtaining superior technical features (e.g., comprehensive technical proposals) than making an award at the lowest cost to the Government. However, the Government will not make an award at a price premium it considers disproportionate to the benefits associated with the proposed superiority of the technical proposal, nor where the price proposal does not substantiate the technical approach and estimated savings. **Therefore, the Government will select the contractor whose proposal is the best value to the Government to perform the delivery order, based on technical AND price evaluation factors, as applied to the overall proposal.** Award after selection will be conditioned upon the selected contractor meeting the preaward requirements as specified in the provision at Section H.29, "Preaward Requirements."

It is the intention of the Government to utilize the Oral Presentations method for evaluation of delivery order SVPS/ECM Projects to the maximum extent possible. The following information relative to evaluation, as well as the information and submission indicated as required in Section H.25 above may be modified in specific DO RFPs to accommodate these procedures.

H.26.1 Technical Evaluation Factors

Factor 1 - Descriptions of Optimization of SVPS Systems and ECMs and Projected Energy Savings

Factor 2 - Energy Baseline & SVPS/ECM Performance Measurement

Factor 3 - Management Approach

Unless specified otherwise in the delivery order solicitation, Factors 1 and 2 are most important and Factor 3 is least important.

a. Factor 1 - SVPS/ECM Descriptions and Projected Energy Savings

Each offeror will be evaluated on his/her demonstrated capability to provide each of the site specific required SVPS/ECMs and ability to accurately project energy savings. Elements to be evaluated include:

- i. The proven technical feasibility, reasonableness, and acceptability of the proposed SVPS/ECMs
- ii. The level and reasonableness of the proposed energy savings
- iii. Verification that the energy analysis is based on sound assumptions and engineering principles; verification that impacts on Government facilities and operations are acceptable and reasonable; the suitability and service life of selected equipment for each proposed SVPS/ECM; proposed environmental impacts are adequately addressed, verification that proposed project implementation schedules are realistic and reasonable.

b. Factor 2 - Energy Baseline and SVPS/ECM Performance Measurement

Offerors will be evaluated on the following measurement elements and capabilities:

- i. The baseline and M&V plan demonstrates a clear understanding of compliance with M&V protocols.
- ii. Verification that the sampling and data collection plans are acceptable and reasonable and that they are based on proposed SVPS/ECMs
- iii. Methods to establish pre and post-installation conditions and determine energy savings are adequate and reasonable
- iv. Periodic measurement approaches for SVPS/ECMs and facility performance are adequate and reasonable to provide assurance of continued effective monitoring of SVPS/ECM performance.

c. Factor 3 - Management Approach

Each offeror will be evaluated on the following elements of site management capabilities: the proposed organization to manage and accomplish the proposed SVPS/ECMs is well suited and addresses all key elements to ensure successful project implementation and maintenance of SVPS/ECM performance; offeror's organization structure is adequate to provide required operation and maintenance of installed SVPS/ECMs, whether operation

and maintenance is done by the contractor or by the Government; offeror's training plan is appropriate and suitable for the proposed level of Government O&M responsibility.

H.26.2 Price Proposal Evaluation Factors

The price portion of the proposals will be evaluated to assess:

- a. The completeness and traceability of the proposed price (i.e. sum of annual contractor payments) to the offeror's technical approach to and understanding of the SVPS/ECM project proposed.
- b. The reasonableness as well as realism of the proposed price (payments), relative to the technical project proposed, and the estimated savings indicated as achievable, based on an evaluation of the DO Schedules submitted by the offeror, as well as the pricing detail provided to support them.
- c. That guaranteed annual energy cost savings exceed the annual contractor payment for each year of the performance period.
- d. That the mark-up(s) and project finance charges proposed for the project are the same as or lower than those contained in the IDIQ contract as negotiated maximums for the contractor.

The price portion of the proposal will not be point scored.

H.27 REQUIREMENTS FOR INITIAL PROPOSAL CONTENTS FOR CONTRACTOR-IDENTIFIED DELIVERY ORDER SVPS/ECM PROJECTS

Before an IDIQ contractor may submit a Contractor-Identified SVPS/ECM project, the IDIQ contractor must first obtain the concurrence of the DOE COR for this contract. This request for concurrence should be in writing and the request should provide sufficient information such that the DOE COR is able to discuss the request with the agency where the project is proposed to be performed. The DOE Contracting Officer will provide the requested concurrence, or nonconcurrence, of the DOE COR, in writing, and within thirty (30) days of the request. Upon this concurrence, an initial proposal, within the scope of the IDIQ contract, must be submitted.

The purpose of the initial proposal is to provide the minimum information required for the Government (specifically, the agency where the potential project would be performed and the DOE COR) to review the merits of the project and its potential technical feasibility, and thereby make a determination as to whether the potential project will be pursued, and further, whether it will be pursued as a sole-source or competitive action among two or more of the IDIQ contractors. The DOE Contracting Officer will respond to the IDIQ contractor in writing within sixty (60) days of submission of its Contractor-Identified initial proposal, indicating whether or not the project will be pursued and by what means.

The Government shall not be liable for costs associated with audits and preparation of proposals for contractor-identified SVPS/ECM projects. Further, the Government will not have rights to the contractor's work products such as survey, data, feasibility study reports, and design documentation, and if a contractor-identified project is pursued as a competitive action, the contractor identifying that project will have the opportunity to review the DO RFP for inclusion of any proprietary data prior to its issuance.

The initial proposal shall contain, at a minimum, the following information:

- (a) Identification of SVPS/ECM project: Identify the location of the SVPS/ECM project (e.g., the Federal Agency, the facility manager's name and telephone number, the building and site address, etc.) and provide a narrative summary of the proposed SVPS/ECM project to include, as a minimum: (a) proposed system or component upgrade, deficiency correction, repair or replacement, and (b) proposed system operational changes and estimated energy usage before and after implementation of the proposed SVPS/ECMs.
- (b) Energy Savings Proposed: This section shall describe the anticipated annual energy savings for the SVPS/ECM project using Schedules DO-IV (in all applicable energy/demand units). While a detailed energy analysis may not be feasible to submit at this time, the Contractor should submit its (a) assumptions on current facility or energy system operating conditions, (b) assumptions on proposed facility or energy system operating conditions, (c) energy savings calculations using formulae and procedures based on accepted engineering principles, including synergistic effects of other SVPS/ECMs, and (d) references used for data, assumptions or empirical formulae. This section should contain sufficient information for the Government to determine whether it is a feasible project.
- (c) M&V Overview: Provide a general description of and support the measurement and verification plan selected for this project, referenced to the FEMP M&V Guide.
- (d) Management Approach: Provide the following:
 - (1) Organization: Show the organization (by name as available) for implementing and managing the project, to include the responsibilities of each individual/element shown and the lines of authority within the overall organization. Also identify what portions of the effort, if any, are to be subcontracted, and if so, provide the same information for subcontractor organization and personnel.
 - (2) Maintenance and Operations: Show the organization structure and describe the approach for installed SVPS/ECMs, for performance of the delivery order's maintenance and operations requirements.
- (e) Price Portion of the Proposal: The contractor shall submit completed Schedules DO-Ia, DO-II, DO-III and DO-IV, with a Rough Order of Magnitude for the contractor identified SVPS/ECM project ONLY. The pricing in these schedules should be supported with the MINIMUM amount of detail to permit the Government to determine whether it is a cost-effective project.

H.28 REVIEW OF INITIAL CONTRACTOR-IDENTIFIED PROPOSAL FOR DELIVERY ORDER SVPS/ECM PROJECTS

The Government will review the Contractor-Identified initial proposal submitted, make a determination as to whether the contractor-identified SVPS/ECM project is a project that the Government wants to pursue further, and notify the contractor of this determination, as indicated in Section H.27 above.

If the Government determines to pursue the contractor-identified SVPS/ECM, either as a competitive or a sole-source delivery order action, a DO RFP will be issued to request a complete proposal in accordance with the evaluation criteria and proposal requirements in Sections H.25 and H.26 of this contract, unless these two sections have been modified by the DO RFP for the project, as explained in Section H.24 (b).

H.29 PREAWARD REQUIREMENTS

Preaward requirements, consisting of the successful accomplishment of a Detailed Energy Survey and the provision of evidence of adequate project financing and bonding, must be met before the Government will make an award to a selected contractor, as follows:

H.29.1 DETAILED ENERGY SURVEY

The selected contractor shall, within the time specified in the delivery order request for proposals from the receipt of Government's notice of intent to award, conduct a detailed energy survey of facilities and energy systems at the project site to confirm the contractor's ability to achieve the **estimated** annual cost savings (Schedule DO-Ia, column (a)) submitted in its price proposal.) The detailed energy survey shall confirm or justify revisions to the delivery order solicitation's provided or assumed facility and energy systems operating conditions and proposed contractor-established energy baseline submitted in its proposal.

- a. The selected contractor shall prepare a report of the detailed energy survey that documents the relevant existing conditions of applicable Government facilities, including but not limited to:
 - Building physical conditions
 - Hours of use or occupancy
 - Area of conditioned space
 - Inventory of energy-consuming equipment or systems
 - Energy-consuming equipment operating conditions and loads
 - Baseline weather (i.e., Cooling and Heating Degree Days)
 - Energy and energy cost savings estimates
 - Site specific M&V Plan
 - Proposed construction and M&V schedules.

The detailed energy survey report may indicate that existing conditions vary from Government provided or contractor acquired data or assumptions proposed for any of the individual SVPS/ECMs. Any variance between survey findings and an individual SVPS/ECM assumptions shall require the selected contractor to revise all supporting documentation for each affected SVPS/ECM in its proposal. These revisions and supporting documentation shall be included as part of the detailed energy survey report. The detailed energy survey report shall fully document the existing building conditions and proposed energy baseline.

The selected contractor shall submit the detailed energy survey report to the Government for review and acceptance prior to delivery order award. Government acceptance of the detailed survey report establishes mutual agreement on the energy and facility baseline conditions and site specific M&V Plan for the delivery order.

- b. Based on the detailed energy survey results, the selected contractor shall submit a completed Schedule DO-Ib, reflecting the contractor's detailed energy survey annual cost savings (Schedule DO-Ib, column (a)). The selected contractor shall submit a copy of the detailed energy survey findings, data, and calculations used to support Schedule DO-Ib. The selected contractor shall also resubmit Schedules DO-II and DO-III if they have been revised in light of the detailed energy survey. The instructions and format for Schedules DO-Ib through DO-III are described in the provision at Section H.25.2, "Format for Price Portion of the Proposal."

- c. Unless otherwise specified in the delivery order's solicitation, if the Schedule DO-Ib Detailed Energy Survey annual cost savings are less than 90% of Schedule DO-Ia estimated annual cost savings contained in the contractor's proposal, then the Government may select the next ranked contractor's proposal for award, where award is again subject to meeting the preaward requirements. If the Government selects the next ranked contractor's proposal, the Government shall not be responsible for any costs incurred by the previous selected contractor as a result of this delivery order requirement and procedure.
- d. Even if the Schedule DO-Ib Detailed Energy Survey annual cost savings are within the specified percentage of the estimated annual cost savings and negotiations are necessary, the Government may select the next ranked contractor's proposal, if the selected contractor does not negotiate in good faith. The Government shall not be responsible for any costs incurred, such as proposal preparation cost or the cost incurred in conducting the detailed survey.

H-29.2 Project Financing by Contractor for Delivery Orders

- a. If the selected contractor is to provide its own financing for project execution, the selected contractor shall have up to the time specified in the delivery order, from Government's acceptance of the detailed energy survey annual cost savings (Schedule DO-Ib), to provide evidence of surety's commitment for bonding of proposed delivery order's building(s) and site in accordance with the provision at Section H.20, "Notice of Payment and Performance Bond Requirements".
- b. Should the selected contractor fail, within the specified timeframe, to provide acceptable evidence of bonding capability, the Government may determine the offeror not acceptable.

H.29.3 Project Financing by Third Party

- a. If the selected contractor requires third party financing for project execution, the selected contractor shall have up to the time specified in delivery order, from Government's acceptance of the detailed energy survey, annual cost savings (Schedule DO-Ib), to provide for delivery order projects proposed:
 - 1. proof of financing commitment; and
 - 2. evidence of surety's commitment for bonding
- b. Proof of financing shall be provided by written statement(s) from the financier(s), signed by authorized corporate officer(s) indicating a firm commitment of funds for project financing.
- c. The Government recognizes the unique aspects of third party financing of energy savings performance contracts. The Government is willing to discuss and consider third party financier needs during the delivery order term.
- d. Should the selected contractor fail, within the specified timeframe, to provide proof of financing commitment and acceptable evidence of bonding capability, the Government may determine the contractor not acceptable.

PART II - CONTRACT CLAUSES**SECTION I - CONTRACT CLAUSES****FAR 52.252-2 CLAUSES INCORPORATED BY REFERENCE (FEB 1998) (Modified)**

This contract incorporates all of what are considered the appropriate clauses for this award by reference, with the same force and effect as if they were given in full text. The clauses incorporated by reference are both Federal Acquisition Regulation (FAR) clauses and Department of Energy Acquisition Regulation (DEAR) clauses. The Contracting Officer will NOT make these available in full text upon request. All of these clauses are available via the Internet, in full text, at the DOE Home Page, at: <http://www.doe.gov/>. Perhaps an even faster way to access the full text of the FAR clauses is using the address <http://farsite.hill.af.mil/vffar1.htm>.

<u>Clause No.</u>	<u>Clause Name</u>
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52.202-1	DEFINITIONS (OCT 1995) (ALT D) (OCT 1995)
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This FAR clause, 52-202-1, is hereby modified by substituting the following for paragraph (a) of the clause:

- (a) "Head of Agency" means the Secretary, Deputy Secretary or Under Secretary of the Department of Energy and the Chairman, Federal Energy Regulatory Commission.

This same clause is further modified by substituting the following for paragraph (c) of the clause:

- (c) The term "DOE" means the Department of Energy and "FERC" means the Federal Energy Regulatory Commission.

52.203-3	GRATUITIES (APR 1984)
52.203-5	COVENANT AGAINST CONTINGENT FEES (APR 1984)
52.203-6	RESTRICTIONS ON SUBCONTRACTOR SALES TO THE GOVERNMENT (JUL 1995)
52.203-7	ANTI-KICKBACK PROCEDURES (JUL 1995)
52.203-10	PRICE OR FEE ADJUSTMENT FOR ILLEGAL OR IMPROPER ACTIVITY (JAN 1997)
52.203-12	LIMITATION ON PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS (JUN 1997)
52.204-4	PRINTING/COPYING DOUBLESIDED ON RECYCLED PAPER (JUN 1996)
52.204-5	WOMEN-OWNED BUSINESS (OCT 1995)
52.209-1	QUALIFICATION REQUIREMENTS (FEB 1995)